

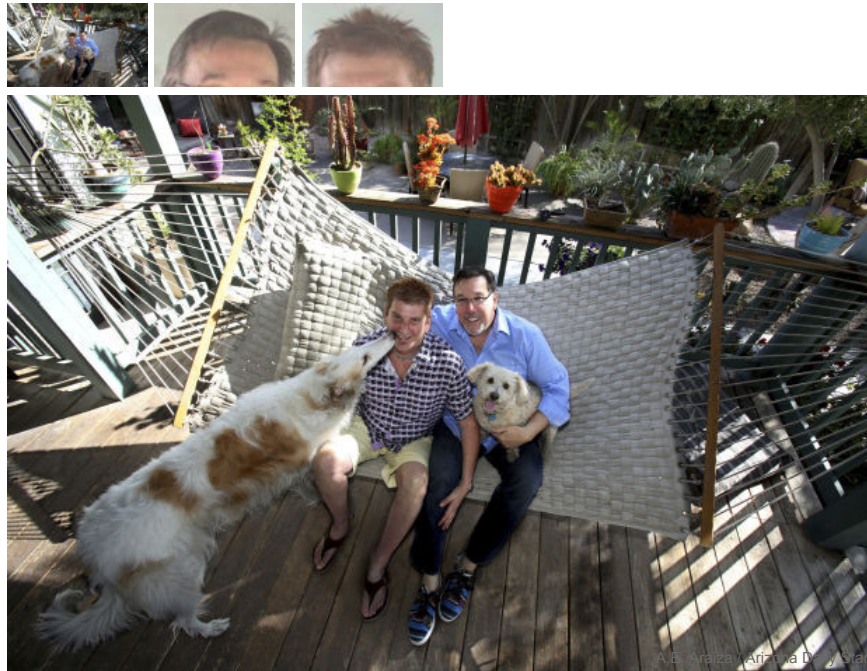


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Tucson couple joins suit to overturn gay marriage ban

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Tucsonans Jeff Ferst, left, and Peter Bramley are challenging Arizona's ban on gay marriage. They have joined a suit that contends the ban violates the 14th Amendment by denying due process and equal protection under the law to same-sex couples.

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On a recent afternoon, a couple walked up to the clerk's counter at Pima County Superior Court seeking a marriage license.

Once there, however, they struggled to fill out the marriage license application because Peter Bramley and Jeffrey Ferst are both men. The state of Arizona doesn't allow same-sex marriage, nor does it recognize such marriages performed in other states.

"They were very nice," Ferst said of the clerk's office employees.

Bramley, 59, president of a public relations and marketing firm, and Ferst, 58, an artist, first crossed out the word "bride" on the application and replaced it with "groom." The court's staff members said they couldn't accept the document because it had been altered, but offered to let them fill out the form again with one of the men filling in the category for bride. Bramley opted for the designation.

However, Ferst and Bramley did not get married at the courthouse that day.

The couple have since joined in a lawsuit filed in January that challenges Arizona's same-sex-marriage ban.

They are the first Tucson couple to join the suit filed in U.S. District Court in Phoenix. Six other same-sex Arizona couples already had signed on to the lawsuit.

"The goal is to strike the Arizona law; it's that simple," Shawn K. Aiken said. He's one of the attorneys who filed the case on behalf of the couples.

The suit contends that Arizona's Constitution and laws permitting marriages only between one man and one woman and nonrecognition of same-sex marriages validated in other states violate the equal-protection and due-process clauses of 14th Amendment to the U.S. Constitution.

The suit, which names as defendants the clerks of the Pinal, Maricopa and Coconino county superior courts, contends Arizona law singles out gay couples for "disfavored treatment" because they can't marry their partners.

For opponents of gay marriage, however, allowing same-sex couples to marry would undermine the societal benefit of traditional marriage.

"Marriage is not only a personal promise; it has a public purpose," said Cathi Herrod, president of the Arizona Policy Center.

The group was the main force behind the 2008 proposition that defined marriage in Arizona as a union between one man and one woman. The proposition passed with more than 56 percent of the vote. Pima County was the only county to vote against the measure, with 51 percent opposed.

Herrod said gay-marriage proponents now want to have the courts undo what the voters legitimately approved.

"Asking federal judges to redefine marriage is overstepping their authority," Herrod said. "This is an issue for the people to decide; this is not an issue for the courts to decide."

Aiken disagrees.

"The same Constitution that protects against legislative acts protects us against voter initiatives and referenda," Aiken said.

He used the analogy of racial discrimination, saying it wouldn't matter if voters approved a ballot measure banning interracial marriages because it would still be an unconstitutional denial of people's rights.

The two sides do share one common view, however. Aiken and Herrod both said the case almost certainly will go to the U.S. Supreme Court.

Bramley and Ferst said marriage has meaning beyond their love for each other.

"It's our way of being normalized," Bramley said.

For example, the couple said they want to have the right to care for each other and make medical decisions for each other in the event one becomes ill.

Ferst and Bramley were married last year in California, one of the states that allow same-sex couples to marry.

While not officially sanctioned at the national level, same-sex couples can file federal taxes jointly. But in Arizona, gay couples have to file separate state taxes, an arrangement other married couples don't have to deal with.

"That's all taken for granted by mainstream couples," Bramley said. "Jeff and I are married in one ZIP code but not in others."

Contact reporter Patrick McNamara at 573-4241 or pmcnamara@azstarnet.com. On Twitter @pm929.

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