



Lawyers for Arizona, gay couples don't expect trial on same-sex marriage ban

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PHOENIX — Lawyers for Arizona and a group of gay and lesbian couples who sued the state over its ban on same-sex marriage want a judge to decide the case without holding a full trial.

The attorneys told U.S. District Court Judge John W. Sedwick they believe he can instead rule based on arguments each side will file in the coming months. The lawyers are split on whether oral arguments are needed, with lawyers for Arizona saying none are necessary. Lawyers for the couples want oral arguments to be set for later this year.

The lawsuit filed by national gay-rights organization Lambda Legal on behalf of seven couples and two surviving spouses argues that the U.S. Constitution's equal protection and due-process clauses are violated by the state law barring them from being married. The state of Arizona is fighting the lawsuit, which was filed in U.S. District Court in March.

A second lawsuit challenging Arizona's ban is also working its way through the courts and assigned to Sedwick, who declined in April to merge the cases. The class-action lawsuit was filed by four same-sex couples in January. It is closer to being fully briefed and could be decided before the case filed by Lambda Legal. That case will be decided without holding a full trial, and there will be no oral arguments.

Arizona lawmakers approved a state law barring same-sex marriages in 1996, and the law was upheld by an Arizona appeals court seven years later. Voters in 2008 amended the Arizona Constitution to include the ban.

The schedule proposed by the attorneys in the Lambda lawsuit means the case would be heard after the 9th U.S. Circuit Court of Appeals hears appeals from Idaho and Nevada in September on cases from those states. A federal judge struck down Idaho's ban on same-sex marriage in May. Another federal judge upheld Nevada's ban in 2012.

The 9th Circuit's territory includes Arizona, and its decision would likely guide Sedwick's decision in the case. Another federal appeals court has already upheld a lower-court ruling overturning a ban on gay marriage. The 10th Circuit Court of Appeals ruled last month that Utah's gay marriage ban was unconstitutional. That case is

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expected to land at the U.S. Supreme Court, which last year struck down a key part of the Clinton-era federal Defense of Marriage Act.

Nineteen states permit gay marriages, and legal challenges against bans on the practice have been filed in all 31 states that prohibit it. Proponents have won in several states this year, with appeals pending from court decisions striking down the laws in 11 states, according to the National Conference of State Legislatures. Arizona and 19 other states have challenges pending.

In Monday's filing, Lambda Legal attorneys and Arizona Solicitor General Robert Ellman proposed a schedule for hearing the Arizona case that includes a request for the judge to issue a ruling without a trial, a procedure called a summary judgment. They will brief Sedwick between now and late October, and they are asking him to set oral arguments as soon as possible after their legal briefs are filed.

If Sedwick follows the lead of many other federal judges that have heard gay marriage cases this year, Arizona's ban could be gone by the New Year.

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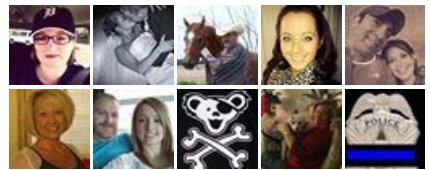


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