

## Same-Sex Marriage Ruling

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She said the U.S. Supreme Court *Roe vs. Wade* ruling 40 years ago legalizing abortion was only the beginning of that fight, and predicted it would be the same for marriage.

"The Center for Arizona Policy will redouble our efforts to promote and defend marriage as between one man and one woman," she said, declining to comment on any legislation they may introduce next session. "The battle's far from over."

Arizona clerks say they are awaiting word from Horne.

The Maricopa County Clerk of the Superior Court, which issues marriage licenses, was review-

ing the ruling Tuesday afternoon. The office had been researching how other states handled same-sex marriage applications and printed marriage licenses, said Chris Kelly, chief deputy clerk of the Superior Court.

"We have been preparing for the prospect that this would potentially come down," Kelly said. "As soon as we get the word, we're prepared to adhere to the judge's ruling."

Aaron Nash, special counsel for the Maricopa County Superior Court Clerk's Office, has said issuing such applications and licenses could start with relatively little notice. The office's information-technology department would just need to change some language,

such as including "spouse" as an option in addition to "bride" and "groom" or "husband" and "wife."

"Our procedure for issuing licenses would likely be the same or very similar as for opposite-sex couples," Nash has said.

The 9th Circuit is the fourth to rule on the issue of same-sex couples marrying. All have deemed laws banning such marriages unconstitutional.

The cases, including Arizona's two, have charged

that Arizona's definition of marriage violates equal-protection and due-process rights guaranteed by the U.S. Constitution's 14th Amendment. Defendants have argued that marriage between only a man and a woman protects the stability of society and assures children are raised by both biological parents.

"Arizona should concede at this point that all the arguments they have raised have been considered by the 9th Circuit and

rejected," Pizer said. "The state has nothing more or different to say and they should save Judge Sedwick and everybody else time and trouble and just acknowledge that."

Elizabeth Gill, senior staff attorney with the American Civil Liberties Union LGBT Project called Tuesday an amazing day for Arizona and other states, particularly coming on the heels of Monday's Supreme Court announcement that it

would not take cases challenging five other state laws, opening the door for same-sex couples to immediately begin marrying in those states.

"There is an unstoppable legal momentum toward full marriage equality," she said.

Republic reporters Shaun McKinnon, Mary Jo Pitzl, Mariana Dale and Michelle Ye Hee Lee contributed to this article.

### What's next?

The U.S. Court of Appeals for the 9th Circuit has overturned marriage bans for same-sex couples in Nevada and Idaho. Its ruling applies to Arizona, but there are some procedural steps before the state begins issuing licenses.

» Attorney General Tom Horne could acknowledge the 9th Circuit opinion applies to Arizona, drop the legal defense of Arizona's law and immediately send letters requiring county clerks to begin issuing marriage licenses to same-sex couples.

» The attorneys in the two federal cases challenging the Arizona definition of marriage are immediately filing motions asking Arizona U.S. District Court Judge John Sedwick to quickly rule the state's law unconstitutional based on the 9th Circuit opinion.

» Sedwick could give the state time to file an argument against overturning the law based on the 9th Circuit opinion, or he could just issue an opinion overturning the law. This could happen within a matter of days or weeks.

» The defendants in the Nevada and Idaho cases could ask the courts to keep their marriage laws in effect while they appeal to either an 11-judge panel of the 9th Circuit or the U.S. Supreme Court. Arizona could argue that its law be kept in place while this happens.

» Once Horne deems the Arizona cases have concluded, he would issue letters notifying clerks of when they should begin issuing licenses.

### The judges who ruled

All three 9th Circuit judges on the panel that knocked down the bans on same-sex marriage were appointed by presidents who were Democrats. A look at each judge:

**Stephen Reinhardt:** The 83-year-old authored the opinion. He was nominated for the 9th Circuit bench in 1979 by President Jimmy Carter. A native New Yorker and an Air Force veteran, he attended Pomona College and graduated from Yale Law School, and was practicing law in Los Angeles when he was appointed to the bench. Earlier this year, he served on a 9th Circuit panel with Judge Marsha Berzon that ruled that attorneys could not keep people off juries because of sexual orientation.

**Marsha Berzon:** Berzon, 69, originally from Cincinnati, was appointed to the 9th Circuit in 1999 by President Bill Clinton. She attended Radcliffe College and the school of law at the University of California-Berkeley, and was an attorney in private practice before becoming a law educator at Berkeley and Cornell University. In recent years, she has heard Arizona cases regarding lethal-injection drugs, abortion and Tucson shooter Jared Loughner.

**Ronald Gould:** Gould, 67, a native of St. Louis, was also appointed by President Clinton in 1999. He studied at the University of Pennsylvania and the University of Michigan School of Law, and had a private law practice in Seattle, where he also taught at the University of Washington.

— Michael Kiefer

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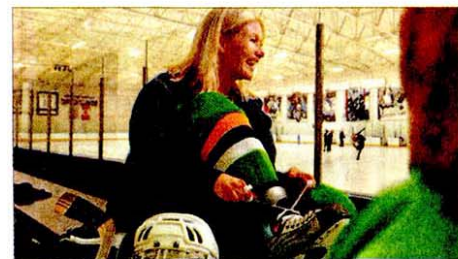
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