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4 Reasons SCOTUS May Have Taken the Michigan Case

By Matt Baume

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Updated: Supreme Court to Hear Marriage Cases

The Supreme Court has agreed

to hear a series of marriage cases, included among them a pivotal case out of Michigan, where a federal judge ruling on a related case just outlined the reasons that now is the time for the justices to intervene.

Earlier this week, District Judge Mark Goldsmith in Michigan ruled that the state must recognize the marriages of the approximately 320 same-sex couples who obtained marriage licenses during a one-day window when such unions were legal last May.

The Thursday ruling wasn't completely unexpected — after all, dozens of federal judges have ruled in favor of marriage equality over the last two years. But the decision was also far from a sure thing, since the Sixth Circuit Court of Appeals, a higher federal court, ruled in early November that the state's marriage ban, along with those in three other states, *did not* violate the U.S. Constitution.

The result is a growing disconnect between federal rulings, with the vast majority of judges upholding legal marriage equality, while a few have rejected it. Only the Supreme Court will be able to resolve the inconsistency, which is why all eyes were on the justices today, when they met in closed conference and selected a case from Michigan as well as cases from Tennessee, Ohio, and Kentucky.

The Supreme Court was likely paying close attention to the Michigan situation — and the points that Judge Goldsmith made in this week's ruling may have resonated with the nation's highest justices. Here are some of Goldsmith's most persuasive arguments, as he wrote them:

You Can't Just Take Away Someone's Marriage

Goldsmith's ruling is infused with irritation at the state's attempt to nullify existing marriage licenses. The state's argument is that the licenses issued in May were in some way "conditional" or "temporary," an argument that Goldsmith just isn't buying:

Defendants' notion that Plaintiffs' marriages were somehow "conditionally valid" ... is made out of whole cloth. There is nothing in the record to indicate that the marriage licenses that Michigan county clerks issued to Plaintiffs contained any language that was conditional. Nor does Michigan law recognize any concept of a conditional marriage.

He's also unsympathetic to the argument that the ongoing appeal somehow gives the state permission to play fast and loose with licenses:

Certainly nothing in federal law makes conditional a marriage prompted by a district court ruling that was unquestionably in effect when the marriage licenses were issued. ... Defendants must, therefore, go beyond the marriage context and rely on their argument that, as a general matter, a judgment that is reversed on appeal has no effect. Such a bald characterization of the law, however, is an oversimplified misstatement.

Due Process and Fundamental Rights

Crucially, Goldsmith cites the Due Process clause of the U.S. Constitution as justification for upholding the licenses. He also finds that marriage is a fundamental right for all people — not just for straight couples:

The continued legal validity of an individual's marital status in such circumstances is a fundamental right comprehended within the liberty protected under the Due Process Clause of the Fourteenth Amendment. ... The Supreme Court has long recognized that government actions impinging on significant dimensions of family life — and especially marriage — implicate fundamental rights.

The ruling also makes a distinction between the initial issuing of a license and the ongoing recognition of that license. Though the two situations are distinct, the Constitution requires that the terms of a license not be altered after the fact:

It is the on-going union — not simply the initial joinder — that is "essential to the orderly pursuit of happiness."

The court refused to give the amendment retroactive application, to avoid a due-process violation under the California Constitution premised on the deprivation of vested rights ... courts have been unwavering in their disapproval of any attempt to deprive people of their marital status when that state's law authorized the marriage when solemnized. This uncontroverted history establishes that this right is fundamental and comprehended within the liberty protected by the Due Process Clause.

Discrimination Is Harmful

Goldsmith also makes it clear that the state is irreparably harming the plaintiffs by depriving them of recognition:

The severe emotional harm through the assault on Plaintiffs' dignity. ... There is nothing "conjectural" or "hypothetical" about these harms. ... Same-sex couples, like their opposite-sex-couple counterparts, have the same innately human impulse to maintain bonds of committed intimacy in a socially and legally recognized marriage. The non-recognition policy frustrates that impulse and triggers a deeply felt sense of degradation from the loss of marital status caused by the state that solemnized it in the first instance.

Even if the plaintiffs' emotional suffering could be quantified, suing someone for monetary damages would be insufficient, he writes:

Money damages are not deemed an adequate remedy, rendering the harm irreparable.

Michigan's Case Was Lousy

State attorneys received a particularly sharp rebuke in the ruling. "Defendants' arguments all lack merit," Goldsmith writes, calling them "myopic" and adding "defendants offer no meaningful response."

In summation, he writes that the state attorneys have absolutely no legal leg to stand on and have essentially wasted the court's time and caused harm to its citizens by prolonging the litigation:

Defendants have failed to provide a single court decision approving a state's effort to vitiate the marital status of a couple lawfully married under that state's law. By contrast, there is a long history of court decisions and legislative enactments, under a variety of theories, reflecting a national consensus rejecting the view that a person's marital status may be invalidated by a state after it was lawfully acquired under that state's law.

Contributor:
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