

Fed'1 judge rules against Florida ban on marriage equality

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A federal judge in Florida has ruled against the state's ban on same-sex marriage (Photo by Bigstock).

A federal judge in Florida ruled Thursday against the state's ban on same-sex marriage, making for the latest in a trend of victories in the courts for supporters of gay nuptials.

In a 33-page ruling, U.S. District Judge Robert Hinkle, a Clinton appointee, determined the state's ban on same-sex marriage is unconstitutional and plaintiffs who filed suit against the state are eligible for a preliminary injunction.

In his decision, Hinkle invokes the U.S. Supreme Court's decision in the 1967 case of *Loving v. Virginia*, which struck down state bans on interracial marriage, as well as the high court's decision against the Defense of Marriage Act.

“Just last year the Court struck down a federal statute that prohibited federal recognition of same-sex marriages lawfully entered into other jurisdictions,” Hinkle writes. “The Florida provisions that prohibit the recognition of same-sex marriages lawfully entered elsewhere, like the federal provision, are unconstitutional. So is the Florida ban on entering same-sex marriages.”

However, the judge delays the effective date of his ruling until stays are lifted on federal appeals courts rulings against same-sex marriage bans in other states, and for an additional 90 days afterward to allow the state to seek a longer stay from him or a higher court.

The one exception to the stay: the state must issued a corrected death certificate for Carol Goldwasser to show at the time of her death she was married to Arlene Goldberg. Prior to Goldwasser’s death, the Florida couple married in New York in 2011.

The case, Brenner v. Scott, was filed by private attorneys in March 2014 on behalf of a same-sex couple who married in Canada, but now live in Tallahassee. That case was consolidated with Grimsley and Albu v. Scott, litigation filed by the American Civil Liberties Union in March 2014 on behalf of eight same-sex couples who wed out-of-state and SAVE, a Miami-based LGBT organization. Goldberg was added as a plaintiff to the case at a later date.

“The institution of marriage survived when bans on interracial marriage were struck down, and the institution will survive when bans on same-sex marriage are struck down,” Hinkle writes. “Liberty, tolerance and respect are not zero-sum concepts. Those who enter into opposite-sex marriages are not harmed at all when others, including these plaintiffs, are given the liberty to choose their own life partners and are shown the respect that comes with formal marriage. Tolerating views with which one disagrees is a hallmark of civilized society.”

The ruling in Florida marks the latest in series of court decisions against Florida’s ban on same-sex marriage, which was approved by state voters in 2008. However, the latest ruling is the first time a federal judge has weighed in on the matter.

Four other judges at the state level have already determined that Florida’s ban on same-sex marriage is unconstitutional. In July, Monroe County Circuit Judge Luis Garcia [ruled against the law](#) in the Florida Keys. Two weeks later, Judge Sarah Zabel of the Eleventh Judicial Circuit Court [made the same determination](#) for the law in Miami-Dade County. In August, Broward Circuit Judge Dale Cohen [struck down the law](#) in his jurisdiction. Finally, one day later, Palm Beach County Circuit Judge Diana Lewis [determined the law was unconstitutional](#) in Ft. Lauderdale when attempting to resolve a estate of a Florida man who entered into a same-sex marriage. Each of these decision were stayed pending appeal.

Florida Attorney General Pam Bondi, who’s been defending Florida’s ban on same-sex marriage against other lawsuit, is expected to appeal the latest decision to the U.S. Eleventh Circuit Court of Appeals. Whitney Ray, a Bondi spokesperson, told the Washington Blade the state is “reviewing the ruling.”

The latest decision adds to the tally of more than 30 victories for supporters of same-sex marriage in the courts in anticipation of a final, nationwide ruling on marriage equality from the U.S. Supreme Court by the middle of next year.

<http://www.washingtonblade.com/2014/08/21/fedl-judge-rules-against-florida-ban-on-marriage-equality/#sthash.wtL5M6vf.dpuf>

Eleventh Circuit green lights Florida same-sex marriages



A federal appeals court won't stay same-sex marriages in Florida.

A federal appeals court on Wednesday refused to continue the hold on same-sex marriages in Florida following a lower court ruling against the state's ban on gay nuptials, allowing same-sex couples to begin to wed in the state "at the end of the day" on Jan. 5.

In a [three-page order](#), a three-judge panel on the U.S. Eleventh Circuit Court of Appeals granted expedited review of a request from Florida

officials to extend a stay as litigation proceeds against the state's ban on gay nuptials, but determined the hold on Florida same-sex marriages should come to an end.

"Having reviewed and fully considered the Motion, the parties' briefs, and the orders issued by the District Court in the proceedings below, the Court hereby denies Appellants' Motion," the order states. "The stay of preliminary injunctions entered by the District Court expires at the end of the day on January 5, 2014."

The three-judge panel that lifted the stay consists of U.S. Circuit Judge Frank Hull, a Clinton appointee; U.S. Circuit Judge Charles Wilson; another Clinton appointee; and Judge Adalberto Jordan, an Obama appointee.

In August, U.S. District Judge Robert Hinkle [struck down Florida's ban](#) on same-sex marriage, known as Amendment 2, invoking Supreme Court's decisions against state bans on interracial marriage and the Defense of Marriages.

But, with the exception of marriage recognition for a lesbian widower whose spouse died of a terminal illness, the judge delayed the effective date of his ruling. Hinkle order a stay until federal appeals court lifted their stays on rulings against same-sex marriage bans in other states, and then for an additional 90 days afterward to allow the state to seek a longer stay from him or a higher court.

Because the Supreme Court in October refused to review decisions from three federal appeals court in favor of marriage equality, thereby dissolving the stays in those states, the hold on same-sex marriages in Florida was set to expire on Jan. 5.

Florida Attorney General Pam Bondi, a Republican, had sought to extend the stay on gay nuptials in Florida up to Election Day and beyond, but the Eleventh Circuit order rebuffs her latest request to stop them from happening.

The state has another option: It could take up its stay request with the U.S Supreme Court. The request would be directed to U.S. Associate

Justice Justice Clarence Thomas, who handles stay requests for the 11th Circuit. Thomas could decide the matter himself or refer it to the entire court.

Jennifer Meale, a Bondi spokesperson, said when asked about the next steps, "We are reviewing the ruling."

If the stay request is made before the high court, it would be the first one from a judicial circuit that has not ruled on marriage equality since the Supreme Court refused federal appeals rulings in favor of same-sex marriage. Although the Supreme Court has recently denied stays on same-sex marriage in Idaho, South Carolina and Alaska, the lack of a federal appeals court ruling on Florida's marriage law makes the high court's actions on a stay more uncertain.