



Written by [Dave Bohon](#) on December 4, 2012

Federal Judge Rules for Traditional Marriage in Nevada

In a ray of hope for traditional marriage, a federal judge has upheld a state constitutional amendment in Nevada that defines marriage as only between a man and a woman. The pro-family victory comes just as the U.S. Supreme Court is considering whether to decide the fate of two landmark marriage laws — the federal Defense of Marriage Act (DOMA) and California's Proposition 8, both of which have been ruled unconstitutional by federal appeals courts. The High Court's decision on reconsidering those two rulings could determine if same-sex marriage eventually becomes legal in all 50 states.



The Nevada ruling also comes less than a month after three states — Maryland, Maine, and Washington — passed voter initiatives legalizing homosexual “marriage,” and Minnesota voters overturned that state's marriage protection amendment.

In his November 26 decision, Judge Robert C. Jones ruled against homosexual activist group Lambda Legal, which had filed suit against Nevada's marriage amendment, passed by voters in 2002. In his [41-page opinion](#), Jones wrote that the state has a “legitimate state interest” in reenforcing the traditional definition of marriage, and that barring the recognition of same-sex “marriage” is “rationally related to furthering that interest.” He added that because “the family is the basic societal unit, the State could have validly reasoned that the consequences of altering the traditional definition of civil marriage could be severe.”

Jones wrote that the “perpetuation of the human race depends upon traditional procreation between men and women,” adding that should same-sex marriage be legalized, it is “conceivable” that a “meaningful percentage of heterosexual persons would cease to value the civil institution as highly as they previously had and hence enter into it less frequently ... because they no longer wish to be associated with the civil institution as redefined.” He speculated that such an attitude could lead to “an increased percentage of out-of-wedlock children, single-parent families, difficulties in property disputes after the dissolution of what amount to common law marriages in a state where such marriages are not recognized, or other unforeseen consequences.”

The judge took particular exception to Lambda's argument that homosexuals lack the political power to fight for their civil rights as citizens. Unlike 20 or more years ago, today “the public media are flooded with editorial, commercial, and artistic messages urging the acceptance of homosexuals,” he wrote. “Anti-homosexual messages are rare in the national informational and entertainment media, except that anti-homosexual characters are occasionally used as foils for pro-homosexual viewpoints in entertainment media.”

Jones added that the president of the United States has demonstrated his acceptance and endorsement of same-sex marriage, going as far as directing his Justice Department to stop defending DOMA in federal lawsuits. “It is exceedingly rare that a president refuses in his official capacity to defend a democratically enacted federal law in court based upon his personal political disagreements,” wrote



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Jones. "That the homosexual-rights lobby has achieved this indicates that the group has great political power."

Noting the recent victories for homosexual marriage at the polls in four states, Jones wrote that it "simply cannot be seriously maintained, in light of these and other recent democratic victories, that homosexuals do not have the ability to protect themselves from discrimination through democratic processes."

While Nevada passed a domestic partnership measure in 2009, giving same-sex couples (and other domestic partners) the same rights and protections as are delineated in other civil contracts, homosexual activists argued that the law still fell short of the legalization of marriage for same-sex couples. Tara Borelli, an attorney with Lambda Legal, indicated that her group would appeal the ruling to the Ninth U.S. Circuit Court of Appeals, which in February ruled that California's Proposition 8, a state amendment defining marriage as only between a man and a woman, is unconstitutional. "We think this decision is not only out of step with where the country is headed, but also completely wrong on the law," Borelli told the [Associated Press](#). She said that recognizing the legal status of same-sex couples through the domestic partnership law, but not allowing them to marry, "brands these loving couples and their children as second-class citizens."

By contrast, proponents of traditional marriage applauded the ruling. "It's good news," said Bill Duncan, director of the [Marriage Law Foundation](#). "I can't say I was entirely surprised, because, at some point, the court has to recognize the reality that marriage is not inconsistent with the U.S. Constitution."

John Eastman, chairman of the [National Organization for Marriage](#) (NOM), contrasted the Nevada ruling with the recent decision by the Ninth Circuit Court invalidating California's Proposition 8. "This important ruling shows how far out of the mainstream the decision in the Proposition 8 case was," said Eastman, "and totally undercuts the legal conclusions that the San Francisco court used to invalidate Proposition 8."

NOM is among the pro-marriage parties asking the U.S. Supreme Court to reconsider the Ninth Circuit's ruling in the Proposition 8 case, "so that the policy judgment of the more than seven million Californians who voted to preserve marriage is given effect, just as the judgment of Nevada voters was upheld ... by the federal court there."



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