



Written by [Dave Bohon](#) on April 25, 2011

Montana Judge Rules Against Homosexual Couples Seeking Marriage Rights

The Associated Press reported that the American Civil Liberties Union (ACLU) had filed the suit, “arguing that the guarantees in the Montana Constitution of equal protection, privacy and dignity should require the state to afford the legal rights to the gay couples.” The liberal legal advocacy group said it would try to take its case to the Montana Supreme Court.



According to the AP report, homosexual couples insisted the lawsuit wasn’t about giving them the right to marry, but rather “they wanted to be able to make burial, health care and other decisions, while enjoying such benefits as jointly filing taxes.”

One of the plaintiffs in the case said that he and his homosexual partner needed “to be able to make medical decisions with and for one another. We need to be able to know that our joint properties will go to the other person as it is in other arrangements. It’s just time.”

But the state’s Attorney General argued that while the legislature could pass a law creating a new class of couples that would encompass homosexual partners, a court decision could not oppose the marriage amendment, approved in 2004, that limits certain benefits to married couples only.

District Judge Jeffrey Sherlock agreed, noting in his April 19 ruling that a court decision ordering the state’s legislature to enact “a domestic partnership or civil union arrangement,” as the lawsuit sought, would amount to a breach of the separation of powers, going much further than his merely declaring the state marriage amendment unconstitutional.

“Sherlock said the marriage amendment alone wouldn’t prevent the court from extending the relief,” reported the AP, “but he argued it does play into his decision that the ‘requested relief constitutes an impermissible sojourn into the powers of the legislative branch.’”

The ACLU’s Betsy Griffing said her group was “obviously very disappointed in the judge’s decision,” but they were “evaluating all of our options. We recognize that this is a long road. We certainly don’t consider our advocacy on this point to be over.”

Griffing claimed that there is a “continuing unequal and unjust treatment of gay and lesbian people in Montana as a whole, and same-sex couples in particular. The Montana Constitution demands that all people be granted equal protection under the law, and every Montanan is entitled to the same rights of privacy and dignity.”

Meanwhile, Jeff Laszloffy, president of the [Montana Family Foundation](#), said that he and other state pro-family activists were “ecstatic” with the judge’s rejection of the ACLU’s case, which was the first



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major court challenge the amendment has faced since its enactment. “This is a victory for traditional families,” said Laszloffy. “Judge Sherlock got it exactly right. The court does not have the right to tell the legislature that they have to pass laws like this. He practiced judicial restraint and for that we’re thankful.”



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