



Written by [Dave Bohon](#) on February 27, 2014

Federal Judge Shoots Down Marriage Protection Amendment in Texas

A federal judge has struck down Texas' constitutional amendment, approved in 2005 by 76 percent of the state's voters, that defines marriage as between a man and a woman. In his February 26 decision Federal District Judge Orlando Garcia ruled that the amendment violated the U.S. Constitution by prohibiting homosexual marriage, and that it denigrated the dignity of gays and lesbians.



In his 48-page opinion Garcia wrote that after "careful consideration, and applying the law as it must, this court holds that Texas' prohibition on same-sex marriage conflicts with the United States Constitution's guarantees of equal protection and due process. Texas' current marriage laws deny homosexual couples the right to marry, and in doing so, demean their dignity for no legitimate reason."

The judge, placed on the federal bench by President Clinton in 1994, noted that while regulating marriage "has traditionally been the province of the states and remains so today ... any state law involving marriage or any other protected interest must comply with the United States Constitution." Garcia insisted that his ruling was not made "in defiance of the great people of Texas or the Texas Legislature, but in compliance with the United States Constitution and Supreme Court precedent. Without a rational relation to a legitimate governmental purpose, state-imposed inequality can find no refuge in our United States Constitution."

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While the ruling made waves in both conservative, pro-family and pro-homosexual circles, the [New York Times](#) noted that it "will have no immediate effect on gay and lesbian couples wishing to marry in Texas. The judge issued a stay on his decision while the state appealed to the United States Court of Appeals for the Fifth Circuit, in New Orleans."

The Texas ruling is the latest in a number of legal decisions that have struck down the will of the voters in several states with regards to the definition of marriage. Earlier this year federal judges overturned voter-passed marriage protection amendments in both Virginia and Oklahoma, and a judge recently ruled that Kentucky must honor homosexual unions recognized as marriage in other states.

The *Times* reported that a number of legal experts "predict that one or more of these cases will be taken up by the United States Supreme Court in the next year or two, particularly if the federal appellate courts reach conflicting conclusions. The Fifth Circuit, where the Texas case was headed, is known as one of the country's most conservative appeals panels."



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Michael Diviesti of the homosexual activist group GetEQUAL TX applauded the ruling, claiming that it represented a “sure sign that things are changing in Texas for the better. We’ve got a few more steps to go on the marriage front, but I think we’re all pretty prepared to keep up the fight.” He added that “I wish we could start planning our weddings right now. Unfortunately, we can’t, but now there is an end in sight. A lot of us were thinking it would take five to ten years before we could get married in our home states. But seeing this happen in our state shows us that we’re not as far away from that as we thought we were.”

By contrast, Jonathan Saenz of [Texas Values](#), a conservative Christian, pro-family group, called the ruling “the most egregious form of judicial activism in our generation. This is only the beginning of an epic battle that the Texas people will ultimately win in the name of the only true and lawful definition of marriage: one man and one woman.”

Similarly, Tony Perkins of the [Family Research Council](#), which has taken a significant lead in defending traditional marriage nationwide, said that Texas was “the latest victim of a judicial free-for-all in making a lawless mockery of the ideals that our Founding Fathers stood for.... This is not just an attack on marriage, but an attack on the rule of law. It is not the role of judges to redefine our most fundamental societal institution which has such far-reaching implications for society at every level.”

Texas Governor Rick Perry expressed his disappointment in Garcia’s ruling, recalling that a majority of Texans “spoke loud and clear by overwhelmingly voting to define marriage as a union between a man and a woman in our Constitution, and it is not the role of the federal government to overturn the will of our citizens.”

Perry said that the U.S Constitution’s Tenth Amendment “guarantees Texas voters the freedom to make these decisions, and this is yet another attempt to achieve via the courts what couldn’t be achieved at the ballot box. We will continue to fight for the rights of Texans to self-determine the laws of our state.”

Texas Attorney General Greg Abbott was optimistic that the Fifth Circuit Court would ultimately rule in favor of the state’s marriage protection amendment. “The U.S. Supreme Court has ruled over and over again that states have the authority to define and regulate marriage,” Abbott said in a statement. “The Texas Constitution defines marriage as between one man and one woman. If the Fifth Circuit honors those precedents, then today’s decision should be overturned and the Texas Constitution will be upheld.”



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