



Written by [Warren Mass](#) on July 1, 2013

Florida Gay Partner Granted Green Card

On June 28 — just two days after the Supreme Court decision that struck down the federal Defense of Marriage Act (DOMA) that denied federal benefits to members of same-sex “marriages” — U.S. Citizenship and Immigration Services notified Traian Popov, a Bulgarian immigrant who lives with his American partner, that his application for a permanent visa (green card) had been approved. Popov and Julian Marsh, who has joint U.S.-Canadian citizenship, were wed in New York, where same-sex “marriage” is legal. Their “marriage” is not recognized in Florida, where they currently live.



Popov was previously given a student visa and was able to remain in the United States as long as he was enrolled in school. Had DOMA not been struck down, he would have been required to leave the country upon graduation.

The Minnesota *Star Tribune* reported that the couple’s lawyer, Lavi Soloway of The DOMA Project, said his organization has filed about 100 green-card petitions for same-sex couples since 2010 and expects more to be approved in the next few days.

The June 26 Supreme Court ruling in [United States v. Windsor](#) found Section 3 of DOMA (codified at 1 U.S.C. § 7) to be unconstitutional “as a deprivation of the liberty of the person protected by the Fifth Amendment.”

Justice Anthony Kennedy, writing for the majority, stated: “[DOMA] also forces same-sex couples to live as married for the purpose of state law but unmarried for the purpose of federal law, thus diminishing the stability and predictability of basic personal relations the State has found it proper to acknowledge and protect.”

The [New York Times](#) described the approval of Popov’s application as “evidence that the Obama administration was acting swiftly to change its visa policies in the wake of the court’s decision on Wednesday invalidating the Defense of Marriage Act, or DOMA.”

Speaking to a *Times* reporter by telephone from the couple’s home on June 30, Marsh described his reaction to the approval of Popov’s visa application. “It was just kind of a shock, like winning the lottery,” said Marsh. “The amazing overwhelming fact is that the government said yes, and my husband and I can live in the country we chose and we love and want to stay in.”

Popov and Marsh plan to become same-sex “marriage” activists in Florida. “We are first-class citizens in New York and in the eyes of the federal government, but second-class citizens in Florida,” Marsh told the *Times*. “We won’t stand for that.”

The [Defense of Marriage Act \(DOMA\)](#) was introduced in Congress by Republicans in May 1996, passed by both houses of Congress by large majorities, and signed into law by President Bill Clinton in September 1996.



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Section 3 of the law, the part just struck down, stated:

In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word “marriage” means only a legal union between one man and one woman as husband and wife, and the word “spouse” refers only to a person of the opposite sex who is a husband or a wife.

Section 2 of the law was allowed to stand. It reads:

No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession, or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, territory, possession, or tribe, or a right or claim arising from such relationship.

So long as Section 2 still remains in effect, Marsh and Popov’s “marriage,” while legal in New York, will not be legally recognized in Florida, where voters approved a constitutional amendment in 2008 banning same-sex “marriages.”

[The Guardian](#) (U.K.) reported that Marsh and Popov received assistance from the [Doma Project](#), which says on its website, “The campaign’s purpose is to raise awareness of the cruel impact of the Defense of Marriage Act (DOMA) on married gay and lesbian bi-national couples and to bring an end to that discrimination.” The paper quoted Soloway’s comments: “The approval of this petition demonstrates that the Obama administration’s commitment to recognizing the marriages of same-sex couples nationwide is now a reality.... We expect additional approvals of green card petitions in the coming days.”

“It is symbolically important that the first gay couple to receive approval of their green card petition live in Florida, a state that has a constitutional ban preventing same-sex couples from marrying.”

Under [Proposition 8](#), an amendment to the state’s constitution, California had also banned same-sex “marriage,” but in a separate ruling, [Hollingsworth v. Perry](#), made on the same day that it invalidated part of DOMA, the Supreme Court dismissed a case that asked the court to overturn a lower-court decision striking down the California law.

Laws related to marriage and other family matters have traditionally been passed at the state level because the Constitution is silent about granting any authority to govern marriage to the federal government. While DOMA, on its surface, defends the traditional view of marriage, the section just struck down defined the meaning of the word marriage “in determining the meaning of any Act of Congress.” A strict constitutionalist might question why the word “marriage” would appear in any act of Congress in the first place.

While the constitutionalist might take comfort in the fact the High Court allowed Section 2 of DOMA to remain (which protects a state from having to recognize same-sex “marriage” granted by another state), such protection should exist without it being defined, and embodying such protection in federal law merely serves to point to the federal government as the arbiter of all rights.

Photo of sample green card



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