



NJ judge: State must allow gay couples to marry

By GEOFF MULVIHILL, Associated Press
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New Jersey is unconstitutionally denying federal benefits to gay couples and must allow them to marry, a judge ruled Friday.

Superior Court Judge Mary Jacobson sided almost entirely with a group of same-sex couples and gay rights groups who sued the state in July days after the U.S. Supreme Court struck down key parts of a law that blocked the federal government from granting benefits to gay couples.

Gov. Chris Christie, a Republican in the midst of a re-election campaign and a possible presidential contender, said through a spokesman Friday he plans to appeal the decision, which he believes should be determined by a popular vote rather than a court.

The judge made the ruling effective Oct. 21, giving Christie time to appeal and likely ask a court to delay implementation of her order.

Christie spokesman Michael Drewniak said the governor "has always maintained that he would abide by the will of the voters on the issue of marriage equality and called for it to be on the ballot this Election Day."

"Since the legislature refused to allow the people to decide expeditiously," he said in a statement, "we will let the Supreme Court make this constitutional determination."

Christie refused to take questions about the ruling after attending a college groundbreaking ceremony near Trenton.

New Jersey allows same-sex couples to enter into civil unions that give them some of the same legal protections as married couples, but the judge said the two labels — marriage for opposite-sex couples and civil unions for same-sex couples — exclude gay couples "from certain federal benefits that legally married same-sex couples are able to enjoy."

Same-sex couples who include a federal employee, those who want to use the federal Family Medical Leave Act or those who file joint federal tax returns are being hurt by the state's recognition of civil unions but not gay marriage, she wrote.

Lambda Legal lawyer Hayley Gorenberg, who prepared the lawsuit, said the judge "has issued a very thorough and powerful opinion that shows the correctness under the constitution of our claims."

"It shows the deep error the state's been making in refusing to let people marry on an equal basis," Gorenberg said.

One of the plaintiffs, Marcye Nicholson-McFadden, said she and her partner of 24 years, Karen Nicholson-McFadden, were trying to absorb the news.

"I want to shout from the rooftops, but I just have to keep myself in check," said Marcye Nicholson-McFadden, of Aberdeen, as she braced for the expected appeal.

Dozens of gay-marriage supporters, including some of the other plaintiffs, rallied Friday night in Montclair to celebrate the ruling, cheering, hugging and popping Champagne.

But Len Deo, president of the New Jersey Family Policy Council, one of the state's more visible social conservative groups, criticized the ruling.

"For our state, essentially, this is judicial activism again, one judge implementing same-sex marriage on New Jersey," he said.

Thirteen states recognize same-sex marriage, including the entire Northeast except for Pennsylvania and New Jersey.

It's been a major political and legal issue in New Jersey for more than a decade.

The state Supreme Court ruled unanimously in 2006 that same sex-couples had the right to the same legal protections as married couples, but a 4-3 majority ruled that the state didn't have to go as far as calling those benefits marriage. Lawmakers responded by quickly creating civil unions.

In 2011, six couples and children of several of them asked the courts to find that the civil union law wasn't fulfilling its intention because it created a separate classification for gay couples. The state Supreme Court sent the issue to a lower court.

But the U.S. Supreme Court ruling in June on the Defense of Marriage Act changed the argument, and the couples asked anew for speedy relief.

Federal agencies have rolled out a variety of policies on whether they will recognize marriages of any gay couples or only those in states that recognize their vows.

The Christie administration argued that it's the federal government's patchwork of policies that's keeping lesbian and gay couples in New Jersey from having the same federal benefits as heterosexual couples.

Even if Friday's summary judgment is ultimately rejected, the broader case would remain, though it likely would take several months before a trial could be held.

The question of gay marriage is also in the Legislature. In 2012, lawmakers passed a law to allow gay marriage, but Christie vetoed it.

On Friday, Democratic lawmakers called on Christie not to appeal the ruling.

"It is also a stark reminder that Governor Christie stands on the wrong side of history," said state Sen. **Barbara Buono**, who's running for governor and has an openly gay daughter. "At every turn, he has prevented our gay brothers and sisters from enjoying the same rights as other New Jerseyans."

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Associated Press writer **Katie Zezima** in Montclair, N.J., and **Angela Delli Santi** in Ewing, N.J., contributed to this report.

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