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March 22, 2006

Connecticut gay couples ask judge to let them marry

Jeffrey Busch and Stephen Davis of Wilton, Conn., say the civil union that gives them the same legal rights as married couples in Connecticut also makes them feel inferior to straight couples. Busch and Davis were among eight couples Tuesday challenging the state's ban on same-sex marriage in superior court.

A bill that last year legalized civil unions but defined marriage as the union of only a man and a woman "is nothing less than the government's announcement that these are second-class citizens," Ben Klein, a senior attorney for Gay and Lesbian Advocates and Defenders, told Judge Patty Jenkins Pittman. GLAD, which used a similar argument to win same-sex marriage rights in Massachusetts, filed suit on behalf of the couples in 2004.

Similar lawsuits are pending in several other states. In January, a Baltimore judge ruled that a law against same-sex marriage violates the Maryland constitution's guarantee of equal rights.

The Connecticut couples are not challenging the civil union law but say the state's refusal to issue the same marriage licenses to gay and heterosexual couples is unconstitutional. Asst. Atty. Gen. Jane Rosenberg defended that state, arguing that there is no fundamental right to marry under Connecticut law and that marriage has traditionally been defined as a union between a man and a woman. "What the plaintiffs are apparently seeking is for Connecticut to change the definition of marriage itself," she said.

She said it was reasonable for the state to create civil unions to give gay couples the legal rights of marriage while also dealing with administrative issues, such as the fact that federal Medicaid and Medicare programs do not recognize same-sex marriage. Jenkins Pittman said she is struggling with whether giving gay couples the same legal rights as heterosexual couples but calling them something different is so harmful that it requires a court remedy.

Klein argued that the word *marriage* carries such weight in society that denying it to same-sex couples is harmful. He also argued that it is important for gay couples to be able to say they are married when they travel to other states and want to, for instance, visit their partners in the hospital. "Marriage is privileged legal, cultural, and social status," he said.

Jenkins Pittman also asked Rosenberg whether Connecticut's law preventing same-sex couples from marrying is any different from a Virginia law that prevented interracial couples from marrying until it was declared unconstitutional. Rosenberg said the difference is that race is not an essential part of marriage but that the gender of the participants is.

Jenkins Pittman said she expects that whoever loses will appeal. A spokeswoman for GLAD said the case will likely end up before the state supreme court in about a year.

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The couples said Tuesday they are optimistic. "Connecticut has done so much to allow us to be a family," Busch said. "I believe the courts will correct this injustice of not allowing us to marry." Busch said he and Davis had a civil union ceremony for the benefit of their son, 3-year-old Elijah Davis Busch. But they didn't invite any guests. "You only have one chance to cry at your wedding, and I didn't want to waste that on a civil union, which feels like second class," Busch said. (AP)

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