

Federal judge strikes down Oklahoma same-sex marriage ban

by [Michael Winter](#) in the [February 19, 2014](#) issue

A federal judge recently ruled that Oklahoma's voter-approved ban on same-sex marriage violates the U.S. Constitution. Same-sex marriages were put on hold in the state, however, because U.S. District judge Terence Kern stayed his January 14 ruling pending an appeal.

After a similar judicial decision in December in Utah, more than 900 same-sex couples got married in that state before the U.S. Supreme Court halted the weddings until the issue is settled.

Oklahoma attorney general E. Scott Pruitt called Kern's ruling "a troubling decision" and said the high court had recently noted that "it is up to the states to decide how to define marriage, not the federal government." Gov. Mary Fallin criticized the decision, noting that 75 percent of voters supported the traditional definition of marriage.

Kern ruled that the 2004 state amendment violated the Equal Protection Clause of the U.S. Constitution, calling the ban "an arbitrary, irrational exclusion of just one class of Oklahoma citizens from a governmental benefit."

He noted that Tulsa residents Mary Bishop and Sharon Baldwin, one of the two couples who sued, have "been in a loving, committed relationship for many years, own property together, wish to retire together . . . and wish to be recognized as a married couple with all its attendant rights and responsibilities."

Furthermore, Kern wrote, "excluding same-sex couples from marriage has done little to keep Oklahoma families together thus far, as Oklahoma consistently has one of the highest divorce rates in the country."

While noting that the Supreme Court has not yet ruled on gay marriages, Kern pointed out that the high court "now prohibits states from passing laws that are born of animosity [toward] homosexuals, extends constitutional protection to the moral

and sexual choices of homosexuals, and prohibits the federal government from treating opposite-sex marriages and same-sex marriages differently.”

In addition to Oklahoma and Utah, constitutions in 27 other states prohibit same-sex marriages, and lawsuits have been filed in 16 states. —*USA Today*

This article was edited Feb. 4, 2014.