Gay marriage opponents ask High Court to honor voters

Oralandar Brand-Williams, The Detroit News  8:35 p.m. EDT April 7, 2015

Detroit — The co-author of the Michigan Marriage Amendment, approved by voters in 2004 banning gay marriage, is asking the U.S. Supreme Court to respect the vote of the state's residents.

"Michigan voters exercised that power to overwhelmingly affirm what our entire nation has until quite recently consistently confirmed, i.e., that marriage is a fundamental social institution which, in its essence, is the union of one man and one woman united for life," Rep. Gary Glenn, R-Larkin Township, wrote in his friend of the court brief along with co-author Patrick Gillen of the Michigan Marriage Amendment. Glenn is the president of the Michigan chapter of the American Family Association.

Glenn's brief, filed April 2, is among dozens filed with the U.S. Supreme Court on both sides of the issue as the nine justices prepare to hear oral arguments April 28 in a set of landmark gay marriage arguments challenging same-sex marriage bans in Michigan, Ohio, Kentucky and Tennessee.

The Michigan case was brought by two Hazel Park women, April DeBoer and Jayne Rowse, who want to legally marry and also adopt each other's special needs adopted children.

On Monday, clerks at the U.S. Supreme Court were still vetting legal briefs filed on behalf of Michigan's ban. A brief was also filed by the American College of Pediatricians, a nonprofit organization of pediatricians and health care professionals. Louisiana State University professors Loren D. Marks and Mark Regnerus, a sociologist who testified against gay marriage last year during the federal trial on the lawsuit brought against Michigan by DeBoer and Rowse, joined the American College of Pediatricians' brief.

Their brief questioned whether children raised by gay couples fare as well as children raised by heterosexual couples.

"Evidence from large, nationally-representative studies has demonstrated that children raised by same-sex parents, particularly those who identify as married, do not fare as well as those with opposite-sex parents, and many experience substantial harm," according to the pediatricians' brief.

"For these reasons, state laws restricting marriage to opposite-sex partners have a rational basis."

The issue of child rearing was raised during the eight-day federal trial in February 2014 in Detroit. The case was heard by U.S. District Judge Bernard Friedman who ruled Michigan's gay marriage ban is unconstitutional. In his ruling, Friedman said the experts' studies did not prove that children raised by heterosexual couples are better off.

Lawyers for the plaintiffs in the gay marriage cases will ask two questions:

— Does the Fourteenth Amendment require a state to license a marriage between two people of the same sex?

— Does the Fourteenth Amendment require a state to recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed out-of-state?

In their brief, Glenn and Gillen further argue, "The Fourteenth Amendment neither requires a state to license a marriage between two people of the same sex, or between any combination of individuals other than between one man and one woman, nor to recognize any such marriage between two people of the same sex, notwithstanding the fact that their marriage was lawfully licensed and performed out-of-state.

"For this Court to rule otherwise would be an unlawful abrogation of authority it does not possess over a question of policy more appropriately left to the legislature and the people."

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