

Supreme Court makes history with 5-4 gay marriage equality ruling

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The White House is lit up in rainbow colors in commemoration of the Supreme Court's ruling to legalize same-sex marriage, June 26, 2015, in Washington, D.C. Photo: Evan Vucci/AP Photo

WASHINGTON — The Supreme Court's historic ruling Friday granting gays and lesbians an equal right to marry marked a profound shift in law and public attitudes. It also created the most significant and controversial new constitutional liberty in more than a generation.

The court's 5-4 decision focused on the question of same-sex marriages. However, its general wording and soaring language will have significance beyond the 20-year-long battle for marriage equality. It will almost surely lead to the end of any remaining laws that directly discriminate against people due to sexual orientation.

The landmark civil rights decision was cheered by some as a long overdue validation of a basic human right. It was condemned by others as an effort by liberal justices to take over states' rights to resolve a social, not legal, issue.

“Equal Dignity In The Eyes Of The Law”

The impact of the decision was immediately felt by gay and lesbian couples in the 13 states that still banned such unions.

“No longer may this liberty be denied to them,” Justice Anthony M. Kennedy

wrote. “No union is more profound than marriage, for it embodies the highest ideals of love, fidelity, devotion, sacrifice and family. In forming a marital union, two people become something greater than once they were.”

Same-sex couples, he wrote, “ask for equal dignity in the eyes of the law. The Constitution grants them that right.”

Kennedy declared that gays and lesbians deserve equal respect and dignity under the due process and equal protection clauses of the 14th Amendment.

Kennedy put the struggle for gay marriage in the context of equal rights. He based the ruling on the 1967 decision that struck down laws that prevented African-Americans and whites from marrying and rulings of the 1970s that ended laws that gave wives lesser rights than husbands.

Support Of The Majority

The court’s decision will likely accelerate the wave of acceptance of same-sex marriage. A majority of Americans now support same-sex marriage, in contrast to just a few years ago.

Kennedy acknowledged that some parts of the country may not be ready to accept equality for gays and lesbians. “The nature of injustice is that we may not always see it in our own times,” he wrote.

In four separate and blistering dissents, conservative justices heaped scorn on the majority opinion. “This court is not a legislature (and) our Constitution does not enact any theory of marriage,” Chief Justice John G. Roberts Jr. said.

Some had thought Roberts might join the majority, but he wrote a 29-page dissent to say why he thought the matter should be decided by lawmakers.

“If you are among the many Americans — of whatever sexual orientation — who favor expanding same-sex marriage, by all means celebrate today’s decision,” he said. But he referred to the decision as an “act of will, not legal judgment.”

Justice Antonin Scalia called the opinion “pretentious,” “egotistic,” “silly” and filled with “straining-to-be-memorable passages.”

The President Is On The Line

Amid rainbow flags and joyous celebrations on the Supreme Court steps, James Obergefell, who brought the case to the court, took a congratulatory phone call from President Barack Obama. Obergefell had sued the state of Ohio for refusing to recognize his marriage after his husband, John Arthur, died.

Obama applauded the ruling, calling it a “victory for America.” He praised the persistence of same-sex marriage backers who took their fight to statehouses, courthouses and all the way to the Supreme Court. “Sometimes,” he said, “there are days like this, when that slow, steady effort is rewarded with justice that arrives like a thunderbolt.”

The president said that allowing gay couples to marry would strengthen communities by extending “the full promise of America to every American.”

Obama added, “This decision affirms what millions of Americans already believe in their hearts: that when all Americans are treated as equal, all are free.”

Legal Barriers Were Falling

Justices Ruth Bader Ginsburg, Stephen G. Breyer, Sonia Sotomayor and Elena Kagan joined with Kennedy to make a majority. Justices Clarence Thomas and Samuel A. Alito Jr. also voted against it.

The ruling came as no surprise. Federal judges, state courts, lawmakers and voters knocked down the legal barriers to gay marriages in 37 states.

That surge of support for gay marriage was set off two years ago when the high court struck down part of the federal Defense of Marriage Act. The court said that marriages of same-sex couples deserved equal dignity and respect under the law.

Its reasoning led other judges to reverse a series of state laws that had limited marriage to being between a man and a woman.

Discrimination Battles Are Not Over

Friday’s ruling might very well send a message throughout the country that discrimination based on sexual orientation is on shaky legal ground.

“This will have tremendous impact on family law in particular,” said Sarah Warbelow, the top lawyer for the Human Rights Campaign in Washington. “This will be a tool to help us begin to eradicate those instances of discrimination.”

She said the ruling will help gay-rights advocates fight more than 115 proposed laws in state legislatures that if passed would target gay people.

Theodore J. Boutrous, a Los Angeles lawyer, said the opinion “rejects the notion of second-class citizenship for gay people.”

Warbelow and others, however, indicated they would have liked Kennedy to have gone even further in his majority opinion. They wanted him to put discrimination based on sexual orientation on the same level as discrimination against racial minorities or women.

“That would have made it crystal clear that there are virtually no circumstances under which the government can discriminate against gays,” Warbelow said. “With the ruling we got today, we may have to continue to fight some of those battles in court.”