

# Federal appeals court rules against gay marriage ban

by [David Gibson](#)

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c. 2012 Religion News Service (RNS) Social conservatives on Thursday (May 31) reacted sharply to a federal appeals court ruling that declared the law barring federal recognition of same-sex marriage unconstitutional.

The First U.S. Circuit Court of Appeals judges are "intent on imposing their liberal, elitist views of marriage on the American people," Brian Brown, president of the National Organization for Marriage.

In its unanimous ruling, the three-judge panel said the 1996 Defense of Marriage Act, or DOMA, deprives same-sex couples the same rights and privileges granted to heterosexual couples. The decision sets up a likely showdown in the Supreme Court and provides another culture war issue for the already contentious presidential campaign.

The Boston-based appeals court judges -- including two Republican appointees -- focused on the section of the law that denies benefits to same-sex couples. They did not address the issue of whether gay couples have a constitutional right to marry. Nor did they rule on DOMA's provision that states cannot be forced to recognize gay unions performed in other states.

Still, social conservatives saw the decision as an ominous sign.

"Under this rationale, if just one state decided to accept polygamy, the federal government and perhaps other states would be forced to accept it, too," said Dale Schowengerdt, legal counsel for the Alliance Defense Fund. "The federal government had the authority to step in against polygamy at one time in our nation's history, and it has the authority to step in against this attempt at marriage redefinition as well."

Gay marriage advocates welcomed the ruling, even though it focused on affirming the right of states to determine their own laws rather than asserting any federal right for gays to marry.

"This ruling will return the federal government to its historic role of respecting marriages performed in the states, without carving out a 'gay exception' that denies thousands of protections," said Evan Wolfson, head of the gay rights group Freedom to Marry.

Liberal religious groups also hailed the ruling.

"Today's decision is a vital, overdue, and very welcome step toward marriage equality and a more just society," said Mark Pelavin, associate director of the Religious Action Center of Reform Judaism. "We look forward to more progress of this sort and will continue to work to ensure a world in which all men and women are able to marry the person whom they love."

Last year the Obama administration decided not to defend DOMA because it believes the law is unconstitutional. President Obama further angered religious conservatives this May when he announced his personal support for same-sex marriage, though he said the decision should be left up to each state.