

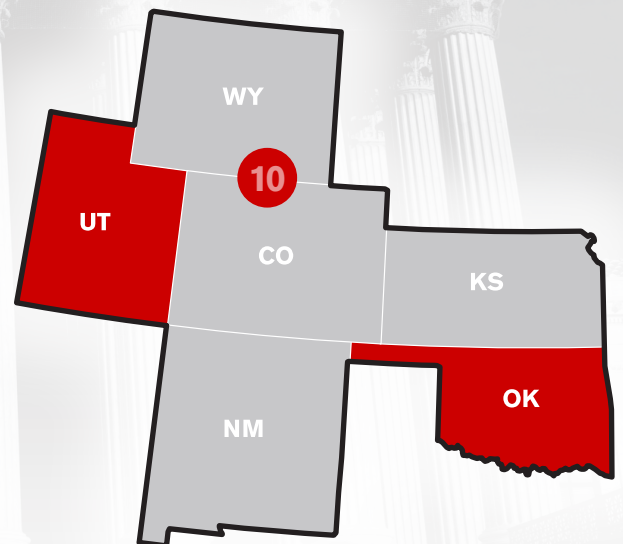
HUMAN
RIGHTS
CAMPAIGN®

AMERICANS
FOR
MARRIAGE
EQUALITY

MARRIAGE BEFORE THE COURTS

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Two marriage equality court cases – one out of Utah and the other from Oklahoma – were heard by a three-judge panel of the U.S. Court of Appeals for the Tenth Circuit. Both cases are on appeal after federal judges struck down the two states' constitutional amendments that prohibit performing or recognizing same-sex marriages.



UTAH

On April 10, barely a year after being filed in federal court in Utah, *Kitchen v. Herbert* were heard by the Tenth Circuit after U.S. District Judge Robert Shelby [ruled](#) the state's marriage ban unconstitutional. In his ruling, Judge Shelby [held that](#) "Utah's prohibition on same-sex marriage conflicts with the United States Constitution's guarantees of equal protection and due process under the law. The State's current laws deny its gay and lesbian citizens their fundamental right to marry and, in so doing, demean the dignity of these same-sex couples for no rational reason."

1,300+ **SAME-SEX COUPLES WERE
LEGALLY MARRIED IN UTAH**

Over the weeks that followed more than 1,300 same-sex couples were legally married in Utah before the U.S. Supreme Court granted a stay pending final disposition of the appeal by Tenth Circuit. The *Kitchen* case was initially filed on March 25, 2013 on behalf of three same-sex couples, one of which was legally married in Iowa but sought for Utah to recognize their marriage. Utahans voted to approve Utah Constitutional Amendment 3 in 2004, which defines marriage as the legal union between one man and one woman and forbids the state from performing or recognizing same-sex marriages.

OKLAHOMA

On April 17, Oklahoma's *Bishop v. Oklahoma* went before the same three-judge panel as the case out of Utah. Two plaintiff couples, Mary Bishop & Sharon Baldwin and Gay Phillips & Susan Barton, filed their case in the U.S. District Court for the Northern District of Oklahoma in November 2004 after they attempted to marry but were refused because of the state's marriage equality ban. Earlier that year voters had approved Oklahoma Question 711, which amended the state constitution to define marriage as a union between one man and one woman, and forbids the state from performing or recognizing same-sex marriages.

On January 14, 2014, U.S. District Judge Terence Kern [ruled](#) in *Bishop* that Oklahoma's ban on marriage equality is unconstitutional. His ruling was stayed pending appeal, meaning marriages did not occur immediately in the Sooner State. The Tenth Circuit put the Oklahoma and Utah cases on the same fast track, but the cases were argued separately.

OKLAHOMA QUESTION 711



**DEFINES MARRIAGE AS
UNION BETWEEN ONE
MAN AND ONE WOMEN**

THREE-JUDGE PANEL

The Tenth Circuit [named the three judges](#) who heard Utah's Amendment 3 appeal. [Judge Paul Kelly Jr.](#) was nominated by President George H.W. Bush and was confirmed to the Tenth Circuit in 1992. [Judge Carlos Lucero](#) was nominated by President Bill Clinton and confirmed to the appeals court in 1995. And [Judge Jerome Holmes](#) was nominated by President George W. Bush and confirmed in 2006. Judge Holmes was one of two judges who [denied Utah's request](#) for a stay on same-sex marriages underway in Utah after a district judge ruled the state's marriage ban unconstitutional.



Judge Paul Kelly Jr.



Judge Carlos Lucero



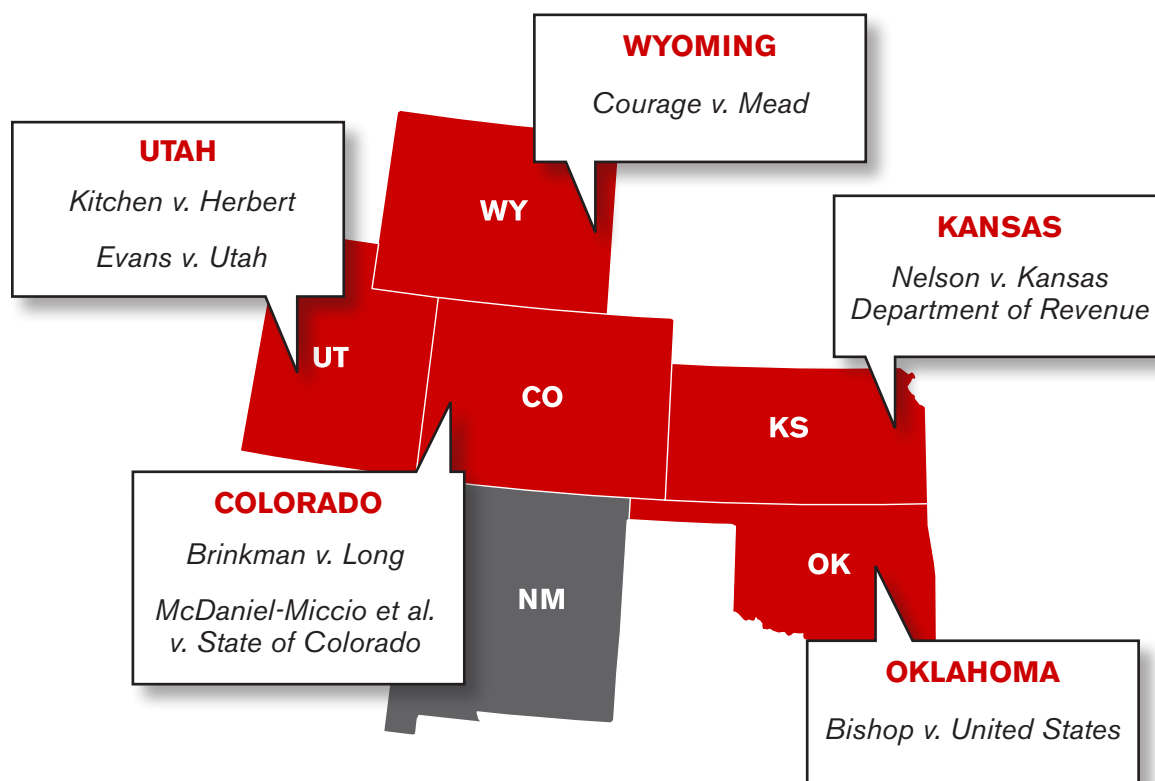
Judge Jerome Holmes



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OTHER TENTH CIRCUIT MARRIAGE CASES

The U.S. Court of Appeals for the Tenth Circuit has jurisdiction over [Colorado](#), [Kansas](#), [New Mexico](#), [Oklahoma](#), [Utah](#) and [Wyoming](#). Presently there are at least seven marriage equality cases in states within the Tenth Circuit that ban marriage equality. Some of the cases were filed in state courts, while the others were filed in federal courts. The New Mexico Supreme Court ruled on December 19, 2013, that same-sex couples in the state had the right to marry. The decision took effect immediately.



CASES FROM COAST TO COAST

Today there are at least 69 marriage equality court cases working their way through the judicial system across the country. These cases have been filed in 29 states plus Puerto Rico and account for nearly 250 plaintiffs taking on state marriage bans. Same-sex couples [can legally marry](#) in seventeen states and the District of Columbia, while [33 states](#) have a law or constitutional amendment restricting marriage to the union of one man and one woman. Only four states – Alaska, Montana, North Dakota and South Dakota – have bans on marriage equality but no current court cases challenging their constitutionality.

AT LEAST
69 MARRIAGE
EQUALITY
COURT CASES

29 STATES
PLUS
PUERTO RICO

NEARLY
250 PLAINTIFFS



AMERICANS FOR MARRIAGE EQUALITY

NINE IN FIVE

The Tenth Circuit is one of five federal appeals courts that will preside over nine marriage equality cases in the coming weeks and months. Other cases that will go before circuit courts include: *Sevcik v. Sandoval* of Nevada in the Ninth Circuit, *DeLeon v. Perry* out of Texas in the Fifth Circuit, *Bostic v. Rainey* of Virginia out of the Fourth Circuit, and four cases out of the Sixth Circuit - *Tanco v. Haslam* of Tennessee, *Bourke vs. Beshear* of Kentucky, *Obergefell v. Kasich* of Ohio, and *DeBoer v. Snyder* of Michigan. The Sixth Circuit holds the distinction of being the only federal appeals court to date that will consider marriage cases from all states within its jurisdiction.

MARRIAGE BEFORE THE SUPREMES

In June of last year, the U.S. Supreme Court ruled on two landmark marriage cases – *Hollingsworth v. Perry* and *United States v. Windsor*. In the *Perry* decision regarding California's marriage ban – Proposition 8 – the Justices returned marriage equality to California, ruling on procedural grounds, not reaching a decision on the merits of Prop 8 or the broader question of whether the Constitution guarantees the fundamental right to marry the person you love. In *Windsor*, the Court struck down Section 3 of the Defense of Marriage Act (DOMA), which carved all same-sex couples, regardless of their marital status, out of all federal statutes, regulations and rulings applicable to all other married people—thereby denying them over 1,100 federal benefits and protections. Since the Supreme Court ruled in *Perry* and *Windsor*, not a single state marriage ban has survived a federal court challenge. These rulings on the merits in the marriage cases have occurred in three state courts and eight federal district courts since the Supreme Court's decision last June.

SINCE THE SUPREME COURT RULED IN *PERRY* AND *WINDSOR*, NOT A SINGLE STATE MARRIAGE BAN HAS SURVIVED A FEDERAL COURT CHALLENGE.

