

Backgrounder on Supreme Court Marriage Cases

Why is the Supreme Court presently considering marriage cases?

After the Court's 2013 decision in *U.S. v. Windsor* striking down the federal definition of marriage in the Defense of Marriage Act, many state marriage laws were challenged in federal courts. Mostly as a consequence of judicial action – federal and state – marriage has effectively been redefined in 37 states and the District of Columbia. The U.S. Court of Appeals for the Sixth Circuit, however, upheld the marriage laws in the four states in that court's jurisdiction – Michigan, Ohio, Kentucky, and Tennessee. In January, the Supreme Court granted petitions to review the Sixth Circuit decision.

What are the marriage cases before the Supreme Court?

The ruling by the U.S. Court of Appeals for the Sixth Circuit encompassed four marriage cases – one from each of the states in the circuit. The Supreme Court consolidated those cases under the caption *Obergefell v. Hodges*.

What are the questions before the Supreme Court?

- (1) Does the Fourteenth Amendment require a state to license a marriage between two people of the same sex?
- (2) 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?

What are the consequences in each scenario?

Ideally, the Court will answer both questions in the negative, allowing states to define and recognize marriage as the union of one man and one woman.

If the Court answers the first question in the affirmative, then marriage will be constitutionally redefined throughout the country, requiring same-sex “marriage” everywhere. This would be the *Roe v. Wade* decision for marriage. Even if the Court were to answer “no” to the first question, if the second question were answered “yes” the net effect would be same – persons could simply travel to states that license same-sex “marriage” and then return to where they live and be recognized as “married” there. Either way, thousands of laws nationwide related to marriage would be adversely impacted. Those who continue to advocate the true definition of marriage will be viewed as proponents of discrimination and will be increasingly marginalized in law and society at large.

When is a decision expected?

The Court heard oral argument on April 28 and is expected to rule by the end of June.

What is the USCCB's position on *Obergefell v. Hodges*?

The USCCB supports upholding the right of states to maintain and recognize the true meaning of marriage in law as the union of one man and one woman. See the USCCB's *amicus brief* to the Court at <http://www.usccb.org/about/general-counsel/amicus-briefs/upload/Obergefell-v-Hodges.pdf>.