

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

HEATHER ANDERSEN and LESLIE
CHRISTIAN; PETER ILGENFRITZ and
DAVID SHULL; JOHANNA BENDER
and SHERRI KOKX; JANET HELSON
and BETTY LUNDQUIST; DAVID
SERKIN-POOLE and MICHAEL
SERKIN-POOLE; VEGAVAHINI
SUBRAMANIAM and
VAIJAYANTHIMALA NAGARAJAN,

Plaintiffs,

v.

RON SIMS, King County Executive;
DEAN LOGAN, King County Director
of Records, Elections, and Licensing
Services Division; and CHERYLE A.
BROOM, King County Auditor,

Defendants.

NO.

COMPLAINT TO REDRESS THE
DENIAL OF THE BASIC CIVIL RIGHT
TO MARRY

For their complaint, plaintiffs allege as follows:

1 and members of the clergy team at the University Congregational United Church of Christ.
2 As ministers they have officiated at the marriage services of same-sex and heterosexual
3 couples many times. It offends their sense of justice that they are unable to sign civil
4 marriage certificates for the same-sex couples they have married. They desire to have their
5 own marriage recognized by the state in a civil ceremony and to make that option available
6 equally to all couples regardless of sexual orientation. PETER ILGENFRITZ and DAVID
7 SHULL are residents of Seattle, King County, Washington.

8 4. Plaintiffs JOHANNA BENDER and SHERRI KOKX have been in a committed
9 relationship for seven years. They are the parents of a three year old child and an infant.
10 In addition to the many challenges faced by all parents of young children, they have had to
11 face additional hurdles erected by the state's refusal to allow them to marry. They have
12 each had to go through an adoption proceeding for the child born to the other; they have
13 been forced to take special care and to incur substantial expense to secure mutual rights to
14 property; they have suffered the anxiety of knowing that privacy laws might not allow them
15 to participate in medical decisions critical to the health of their families; they were forced
16 to go through special arrangements to obtain medical leave; and, they live with uncertainty
17 that their pensions and other benefits might be denied to their loved ones should
18 something happen to them. They want to be married so that they can have the same
19 fullness of life that is available to young heterosexual families. JOHANNA BENDER and
20 SHERRI KOKX are residents of Seattle, King County, Washington.

21 5. Plaintiffs JANET HELSON and BETTY LUNDQUIST have been in a
22 committed relationship since 1992. They are raising two children, an eight year old of
23
24

1 whom they have permanent non-parental custody and a two year old they have adopted.
2 Washington State has recognized their parenting abilities in the past by licensing them to
3 care for foster children, making it especially ironic that state law forbids their marriage, the
4 nation's oldest and most traditional institution for child rearing. At a commitment
5 ceremony for friends a few years back, their oldest child asked why his parents weren't
6 getting married. They responded that they would, but only when the law allowed them to
7 be truly married. They bring this action so they may finally become truly married, in the
8 eyes of the world -- and of their own children. JANET HELSON and BETTY LUNDQUIST
9 are residents of King County, Washington.

10 6. Plaintiffs DAVID SERKIN-POOLE and MICHAEL SERKIN-POOLE have been
11 in a committed relationship for almost 23 years. David is a Cantor (member of the Jewish
12 Clergy Team) at Temple B'Nai Torah and Michael takes care of the couple's three disabled
13 children who require special care. Both David and Michael are active in educating others
14 about and advocating for the care of developmentally disabled children. As Cantor, David
15 has married many couples, but marriage is denied to him and Michael by Washington law.
16 They have purchased wedding rings and considered going out of state to celebrate
17 marriage, but they have stored the rings for the time being. They have decided to wait, to
18 celebrate marriage in their own community, in the presence of their friends and extended
19 family just as most heterosexual couples are able to do. They ask this court to extend to
20 them the right to marry here in their home state. DAVID SERKIN-POOLE and MICHAEL
21 SERKIN-POOLE are residents of King County, Washington.

1 12. Each plaintiff is of the requisite age to marry, and no plaintiff is disabled
2 from marriage as a result of being closely related to his or her proposed partner. With the
3 exception of PETER ILGENFRITZ and DAVID SHULL and VEGAVAHINI SUBRAMANIAM
4 and VAIJAYANTHIMALA NAGARAJAN, none of the plaintiffs is currently married.
5 PETER ILGENFRITZ and DAVID SHULL, and VEGAVAHINI SUBRAMANIAM and
6 VAIJAYANTHIMALA NAGARAJAN, have been married in religious ceremonies, but have
7 not been given a license to marry by Washington or any other civil jurisdiction.

8 13. Ron Sims serves as the Executive of King County. He appoints the Director of
9 the King County Records, Elections and Licensing Services Division, and that office is
10 responsible for granting or denying marriage licenses. Mr. Sims has appointed Dean Logan
11 Director of the King County Records, Elections and Licensing Services Division.

12 14. On March 8, 2004, Mr. Logan and his staff, at the direction of Mr. Sims,
13 denied marriage licenses to plaintiffs. The sole basis for the rejection was that each
14 plaintiff proposed to marry a person whose gender was the same as the gender of that
15 plaintiff. But for this sameness of gender, each plaintiff's application would have been
16 accepted by King County and each plaintiff would have been awarded a license to marry.

17 15. Refusal to allow same-sex couples to marry results in the denial of rights,
18 benefits, and responsibilities that are automatically accorded to married couples. These
19 rights and responsibilities include, among other things: decision-making authority for
20 funeral arrangements and disposition of remains, parental rights and responsibilities,
21 access to family courts in the event of dissolution, community property rights and
22 obligations, evidentiary privileges available to spouses, the ability to file income taxes
23

1 jointly, death benefits for surviving spouses, responsibility to disclose certain conflicts-of-
2 interest, joint assessment of income for determining eligibility for state government
3 assistance programs, the denial of social security survivor benefits, and the right to take
4 leave from work to care for a sick partner.

5 16. More importantly, in addition to the denial of tangible benefits, denying two
6 people in a loving, committed relationship the right to marry denies the couple the
7 opportunity to express their commitment in the deepest way that society provides; it denies
8 them the opportunity to enter into a relationship that is universally respected and
9 recognized as a symbol of love and commitment. By prohibiting same-sex couples from
10 marrying, the state brands them with the stigma of inferiority.

11 17. Mr. Sims instructed Mr. Logan and his staff to deny plaintiffs' marriage
12 licenses in compliance with state statutory and case law that purports to define marriage
13 exclusively as a union between a man and a woman. While Mr. Sims feels compelled as
14 the King County Executive to enforce this law, he has a deep moral conviction, as do
15 plaintiffs, that denying same-sex couples the right to marry is a violation of their basic civil
16 rights and is offensive to human dignity.

17 VIOLATIONS OF THE WASHINGTON CONSTITUTION

18 18. Washington law prohibits marriage "[w]hen the parties are other than a male
19 and a female." RCW 26.04.020(1)(c). This prohibition, and any other provision of
20 Washington statutory or case law that prevent marriage between otherwise qualified
21 persons of the same sex, is void for violation of the following provisions of the Washington
22 Constitution:
23
24

- 1 a. The guarantee that “[n]o person shall be deprived of life, liberty, or
2 property, without due process of law.” Article I § 3.
- 3 b. The guarantee that “[n]o person shall be disturbed in his private affairs .
4 . . . without authority of law.” Article I § 7.
- 5 c. The guarantee that “[n]o law shall be passed granting to any citizen [or]
6 class of citizens . . . privileges or immunities which upon the same
7 terms shall not equally belong to all citizens.” Article I § 12.
- 8 d. The guarantee that “[e]quality of rights and responsibility under the law
9 shall not be denied or abridged on account of sex.” Article XXXI § 1.

10 19. Plaintiffs do not make any claim here that Washington law offends the
11 Constitution of the United States. They leave that issue for another day.

12 CAUSES OF ACTION

13 20. Declaratory Judgment. There is an actual controversy between plaintiffs
14 and defendants arising from the refusal of defendants to issue marriage licenses to
15 plaintiffs. Plaintiffs are entitled to a judgment declaring that RCW 26.04.020(1)(c), and all
16 other provisions of Washington law that prevent or impair the right of same-sex couples to
17 marry, offend the Washington Constitution and therefore are void.

18 21. Marriage License Appeal. Pursuant to RCW 26.04.190, plaintiffs are entitled
19 to an order from this court directing defendants to issue them licenses to marry.

20 22. Mandamus. Plaintiffs are entitled to a writ of mandamus directing the
21 defendants to issue them licenses to marry.

1 REQUEST FOR RELIEF

2 Plaintiffs ask the Court to award the following relief:

3 1. Declaratory Judgment that RCW 26.04.020(1)(c), and all other provisions of
4 Washington law that prevent or impair the right of same-sex couples to marry, offend the
5 Washington Constitution and therefore are void;

6 2. An order directing defendants to issue to plaintiffs licenses to marry;

7 3. A writ of mandamus directing defendants to issue to plaintiffs licenses to
8 marry; and

9 4. Costs, attorneys fees, any other relief that this Court deems just and equitable.

10 DATED this 8th day of March 2004.

11 PATRICIA NOVOTNY

HELSELL FETTERMAN LLP

12
13 _____
14 Patricia Novotny, WSBA #13604
15 3418 N.E. 65th Street, Suite A
16 Seattle, WA 98115
206-525-0711

13 By _____
14 Bradley H. Bagshaw, WSBA #11729
15 Jennifer S. Divine, WSBA #22770
16 1001 Fourth Ave., # 4200
17 Seattle, WA 98154
206-292-1144

17 PRESTON GATES & ELLIS LLP

NORTHWEST WOMEN'S LAW CENTER

18
19 By _____
20 Jamie D. Pedersen, WSBA #24690
21 925 Fourth Ave., #2900
22 Seattle, WA 98104
206-623-7580

19 By _____
20 Lisa Stone, WSBA #15421
21 Nancy Sapiro, WSBA #18751

1 LAMBDA LEGAL DEFENSE AND
2 EDUCATION FUND, INC.

3 By _____
4 Jamie D. Pedersen, WSBA #24690
5 Preston Gates & Ellis LLP
6 925 Fourth Ave., #2900
7 Seattle, WA 98104
8 206-623-7580
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24