

Virginia's Same-Sex Marriage Ban Is Ruled Unconstitutional

by [Mark Memmott](#)

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"A federal judge has struck down Virginia's ban on same-sex marriage, ruling on Thursday that the amendment adopted by voters in 2006 is unconstitutional," [WAMU's Michael Pope writes this morning](#). He adds that:

"In the 41-page opinion in *Bostic v. McDonnell* Judge Arenda L. Wright Allen said the amendment violates the due process and equal protection clauses of the Fourteenth Amendment to the United States Constitution. Wright stayed the ruling pending appeal, which means same-sex marriages in the commonwealth will not begin immediately."

Eventually, legal analysts say, the issue is likely to end up before the U.S. Supreme Court.

The judge's ruling [is posted here](#).



Supporters of same-sex marriage and opponents were out when the challenge to Virginia's law was heard in a Norfolk federal court earlier this month.



Jay Paul/Getty Images

"Our Declaration of Independence recognizes that 'all men' are created equal. Surely this means all of us," she writes. Then, addressing why a judge might strike down a law approved by a state's voters, she says that "while ever-vigilant for the wisdom that can come from the voices of our voting public, our courts have never long tolerated the perpetuation of laws rooted in unlawful prejudice." (**Note at 2 p.m. ET:** Earlier, we relied on a report that misquoted the judge. It isn't, of course,

the Constitution that refers to all men being created equal. The judge correctly cited the Declaration of Independence. We've fixed her quote.)

[The Associated Press notes that:](#)

"Allen's ruling makes Virginia the second state in the South to issue a ruling recognizing the legality of gay marriages.

"A judge in Kentucky ruled Wednesday that the state must recognize same-sex marriages performed in other states. It did not rule on the constitutionality of same-sex marriages inside the state, however. The Virginia judge's ruling also follows similar decisions in Utah and Oklahoma federal courts."

In January, Virginia's newly elected attorney general, Democrat Mark Herring, [announced that he would not defend the same-sex marriage ban](#) in court. "I cannot and will not defend laws that violate Virginians' rights," Herring said.

His decision drew praise from groups that advocate for gay rights, and [criticism from groups](#) that oppose same-sex marriage. Herring talked about the new ruling on [Friday's broadcast of *Morning Edition*](#). "It's really a decision that's a victory for the Constitution and for treating everyone equally under the law," he said.

Update at 1:50 p.m. ET. Virginia Is Ready For This, Couple Says.

[WAMU reports that:](#)

"Carol Schall and Mary Townley are one of the two couples who sued the commonwealth for the right to marry. Schall and Townley were married in San Francisco in 2008, but Virginia refused to recognize their relationship. Now, their case could be appealed as high as the U.S. Supreme Court.

"Schall and Townley say Virginians are ready to accept families like theirs.

" 'Looking at the people just that we know in Chesterfield County, Va., I've barely met anybody that didn't support us as a family,' says Townley. 'And we're living in a neighborhood that would be characterized as very Republican, very red,' says Schall."