



WISCONSIN FAMILY ACTION
Marriage|Family|Life|Liberty

PO Box 1327 • Madison WI 53701-1327
608-268-5074 (Madison) • 866-849-2536 (toll-free) • 608-256-3370 (fax)
Email: info@wifamilyaction.org
Web site: www.wifamilyaction.org

FOR IMMEDIATE RELEASE

November 7, 2014

Contact: Julaine Appling, President – 608-334-6435
Fax: 608-256-3370
Email: info@wifamilyaction.org

6th CIRCUIT COURT OF APPEALS GETS IT RIGHT
Ruling on marriage means US Supreme Court is likely to take up the matter

MADISON— “Yesterday’s decision in the 6th Circuit Court of Appeals vindicates what we’ve been saying,” said Julaine Appling, president of Wisconsin Family Action. “We said last month when the US Supreme Court denied Wisconsin’s request to hear our case regarding our marriage protection amendment that this battle was far from over.”

Writing for the 6th Circuit Court of Appeals (covering Michigan, Ohio, Kentucky and Tennessee), Judge Jeffrey Sutton rejected the judicial activism that has been so blatant in the decisions of other federal judges on various states’ marriage protection amendments:

“Of all the ways to resolve this question, one option is not available: a poll of the three judges on this panel, or for that matter all federal judges, about whether gay marriage is a good idea. Our judicial commissions did not come with such a sweeping grant of authority....to make such a vital policy call for the thirty-two million citizens who live within the four States of the Sixth Circuit: Kentucky, Michigan, Ohio, and Tennessee.”

“Judge Sutton’s opinion stands in stark contrast to Judge Posner’s opinion for the 7th Circuit Court of Appeal and its decision to uphold Judge Barbara Crabb’s ruling that Wisconsin’s Marriage Protection Amendment is unconstitutional. Judge Posner’s arrogant, sarcastic and convoluted arguments essentially held that the more than 1.2 million Wisconsin citizens who voted in favor of our marriage amendment were irrational bigots.”

Judge Sutton also evidenced respect for precedent while rejecting irrational arguments put forth by other federal judges.

“A dose of humility makes us hesitant to condemn as unconstitutionally irrational a view of marriage shared not long ago by every society in the world, shared by most, if not all, of our ancestors, and shared still today by a significant number of the States....It is not society’s laws or for that matter any one religion’s laws, but nature’s laws (that men and women complement each other biologically), that created the [marriage] policy imperative.”

He also rightly observes that changing the gender of marriage opens wide the door for changing other characteristics of marriage, including allowing polygamy, an argument those wanting to redefine marriage have yet to answer.

“If it is constitutionally irrational to stand by the man-woman definition of marriage, it must be constitutionally irrational to stand by the monogamous definition of marriage.”

Appling concluded, “This decision and Judge Sutton’s opinion are great reminders that this battle is far from over. Legal analysts tell us that now that there are conflicting opinions from the appellate courts, the US Supreme Court is pretty much forced to resolve the issue. We look forward to that and remain cautiously optimistic that Wisconsin’s Marriage Protection Amendment will once again be the law in our state.”

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Wisconsin Family Action is a statewide, not-for-profit organization actively strengthening, preserving and promoting marriage, family, life and liberty in Wisconsin.