

# OBERGEFELL V. HODGES

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# OBERGEFELL V. HODGES

## ISSUE

Same-Sex Marriage

## MATERIALS

This section includes the text of opinions from the United States Court of Appeals for the Sixth Circuit and the U.S. Supreme Court. The section also includes briefs filed with the U.S. Supreme Court.

## HOW TO USE MILESTONES IN THE LAW

This section allows readers to consider historical arguments made by judges and advocates in this landmark decision related to constitutional protections of same-sex marriage.

As you read this section, you might consider the following questions:

- What is the constitutional basis for recognition of same-sex marriages?
- How had changes in societal views toward same-sex marriages affected the Court's decision?
- How did the four dissenting opinions differ from the majority?

## THE CASE IN HISTORY

Historically, states did not formally recognize marriages between members of the same

sex, and some states during the 1970s passed statutes that defined marriage as a union between a man and a woman. Supporters for lesbian, gay, bisexual, transgender, and queer (LGBTQ) rights attempted to challenge these state laws in court but had little success until early in the first decade of the twenty-first century.

Vermont became the first state to recognize civil unions in 2000. These unions permitted same-sex couples to enjoy many of the same rights as heterosexual couples. Recognition of same-sex marriage followed in Massachusetts in 2004 when the state's supreme court ruled that the state's constitution protected the rights of same-sex couples to marry.

By 2015, a total of 36 states along with the District of Columbia and Guam recognized same-sex marriages. The issue reached the U.S. Supreme Court in *Obergefell v. Hodges*. A divided Court ruled that the Fourteenth Amendment protected the rights of same-sex couples to marry. Justice Anthony Kennedy wrote for the majority, while Chief Justice John Roberts and Justices Antonin Scalia, Clarence Thomas, and Samuel Alito each filed separate dissenting opinions.

## Opinion of the U.S. Court of Appeals for the Sixth District

### NO. 14-1341

APRIL DEBOER, ET AL., *PLAINTIFFS-APPELLEES*,

v.

RICHARD SNYDER, GOVERNOR, STATE OF MICHIGAN, IN HIS OFFICIAL CAPACITY, ET AL., *DEFENDANTS-APPELLANTS*.

### 14-3057

JAMES OBERGEFELL, ET AL., *PLAINTIFFS-APPELLEES*,

v.

RICHARD HODGES, DIRECTOR OF THE OHIO DEPARTMENT OF HEALTH, IN HIS OFFICIAL CAPACITY, *DEFENDANT-APPELLANT*.

### 14-3464

BRITTANI HENRY, ET AL., *PLAINTIFFS-APPELLEES*,

v.

RICHARD HODGES, DIRECTOR OF THE OHIO DEPARTMENT OF HEALTH, IN HIS OFFICIAL CAPACITY, *DEFENDANT-APPELLANT*.

### 14-5291

GREGORY BOURKE, ET AL., *PLAINTIFFS-APPELLEES*,

v.

STEVE BESHEAR, GOVERNOR, COMMONWEALTH OF KENTUCKY, IN HIS OFFICIAL CAPACITY, *DEFENDANT-APPELLANT*.

### 14-5297

VALERIA TANCO, ET AL., *PLAINTIFFS-APPELLEES*,

v.

WILLIAM EDWARD "BILL" HASLAM, GOVERNOR, STATE OF TENNESSEE, IN HIS OFFICIAL CAPACITY, ET AL., *DEFENDANTS-APPELLANTS*.

### 14-5818

TIMOTHY LOVE, et al., *Plaintiffs/Intervenors-Appellees*,

v.

STEVE BESHEAR, GOVERNOR, COMMONWEALTH OF KENTUCKY, IN HIS OFFICIAL CAPACITY, *DEFENDANT-APPELLANT*.

14-1341

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN AT DETROIT; NO. 2:12-CV-10285—BERNARD A. FRIEDMAN, DISTRICT JUDGE.

14-3057 & 14-3464

APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO AT CINCINNATI; NOS. 1:13-CV-00501 & 1:14-CV-00129—TIMOTHY S. BLACK, DISTRICT JUDGE.

14-5291 & 14-5818

APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY AT LOUISVILLE; NO. 3:13-CV-00750—JOHN G. HEYBURN II, DISTRICT JUDGE.

14-5297

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE AT NASHVILLE; NO. 3:13-CV-01159—ALETA ARTHUR TRAUER, DISTRICT JUDGE.

ARGUED: AUGUST 6, 2014

DECIDED AND FILED: NOVEMBER 6, 2014  
BEFORE: DAUGHTREY, SUTTON AND COOK, CIRCUIT JUDGES.

COURT OF  
APPEALS FOR  
THE SIXTH  
CIRCUIT,  
NOVEMBER 2014

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