Puerto Rico's Law Against Same-Sex Marriage Declared Unconstitutional

APRIL 12, 2016

In a declaratory judgment entered yesterday, the U.S. District Court in Puerto Rico ordered that the Commonwealth must recognize validly married same-sex couples and guarantee that they have "the same exact rights" as those enjoyed by opposite-sex couples. In so ruling, the District Court officially declared: "Article 68 of the Puerto Rico Civil Code…as well as any other Commonwealth law or provision that prohibits same-sex couples from marrying, or which fails to recognize a valid same-sex marriage from another jurisdiction is UNCONSTITUTIONAL." The Court will retain jurisdiction to enforce the judgment until the Puerto Rico Legislative Assembly repeals and/or amends the law. Conde-Vidal v. Padilla, Case No. 14-1253 (D. P.R. Apr. 11, 2016).

The ruling comes after an intense legal battle which began in March 2014, when the plaintiffs, a group of "married committed same sex couples," sought a declaration that their "exclusion from the institution of civil marriage violates the Fourteenth Amendment." The complaint was initially dismissed in October 2014; however, during the pendency of the appeal, the United States Supreme Court decided Obergefell v. Hodges, 135 S. Ct. 2584 (2015), which held "that the right to marry is a fundamental right inherent in the liberty of the person, and under the Due Process and Equal Protection Clauses of the Fourteenth Amendment couples of the same-sex may not be deprived of that right and that liberty."

In light of the decision in Obergefell, the United States Court of Appeals for the First Circuit issued a judgment in July 2015, vacating the District Court's dismissal of the Conde-Vidal case, and remanding the case for further proceedings consistent with Obergefell. The defendants in the Conde-Vidal case agreed that Puerto Rico's ban on same-sex married was unconstitutional, and along with the plaintiffs, made a joint request that the District Court enter judgment in favor of the plaintiffs. It seemed like the battle was won, and all the parties needed to do was wait for the court to enter the judgment. Not so fast.

On March 8, 2016, Senior U.S. District Judge Juan M. Perez-Gimenez issued an order denying the parties' joint request to enter judgment in favor of the plaintiffs, opining that the Commonwealth's ban was not unconstitutional because the "right to same-sex marriage" had not been determined to apply in Puerto Rico. The parties immediately sought a writ of mandamus from the First Circuit to require the District Court to enter judgment in plaintiffs' favor and strike down the ban as unconstitutional. The First Circuit, all too eager to put Judge Perez-Giminez in his place, granted the parties' request on April 7, 2016, and held:

> The district court's ruling errs in so many respects that it is hard to know where to begin. The constitutional rights at issue here are the rights to due process and equal protection, as protected by both the Fourteenth and Fifth Amendments to the United States Constitution….Those rights have

©2026 Bowditch & Dewey LLP. All Rights Reserved.

> already been incorporated as to Puerto Rico…And even if they had not, then the district court would have been able to decide whether they should be. In any event, for present purposes we need not gild the lily. Our prior mandate was clear…
>
> In ruling that the ban is not unconstitutional because the applicable constitutional right does not apply in Puerto Rico, the district court both misconstrued that right and directly contradicted our mandate. And it compounded its error (and signaled a lack of confidence in its actions), by failing to enter a final judgment to enable an appeal in ordinary course.
>
> …The case is remitted to be assigned randomly by the clerk to a different judge to enter judgment in favor of the Petitioners promptly, and to conduct any further proceedings necessary in this action.

A full copy of the First Circuit's opinion can be found here.

©2026 Bowditch & Dewey LLP. All Rights Reserved.