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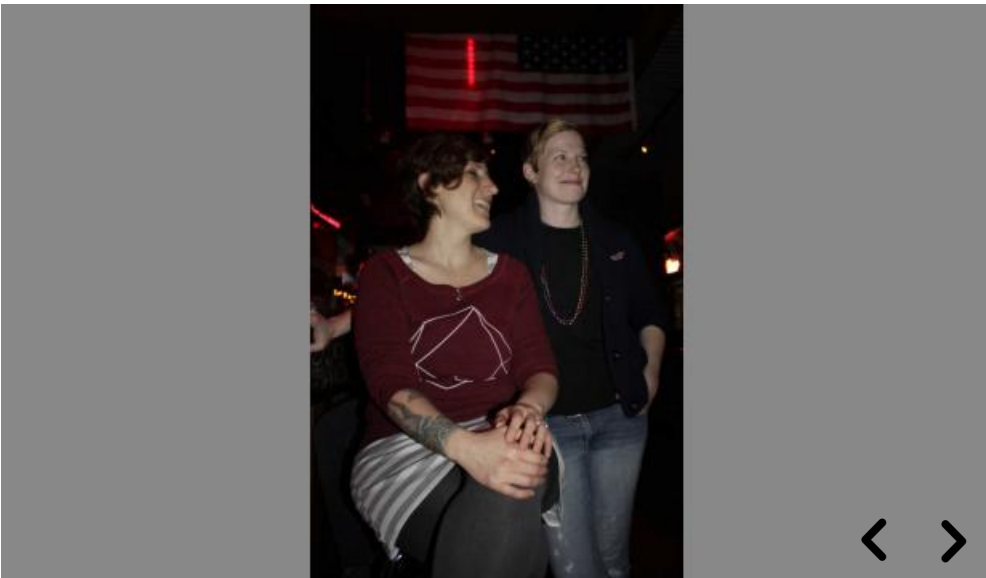
Posted October 12, 2014 06:39 pm - Updated October 13, 2014 08:16 am

By KATIE MORITZ (/katie-moritz)

JUNEAU EMPIRE

Alaska's same-sex marriage ban is overturned

State will appeal



Kimberly Crawford, left, and Marguerite Crawford talk to Juneau Empire reporter Katie Moritz (not pictured) about the federal court decision Sunday, Oct. 12, 2014 ruling against the Alaska constitutional amendment limiting gay marriage. The Crawfords, who live in Juneau, were married outside Alaska. (James Brooks photo)

Marguerite and Kimberly Crawford had just returned from a shopping trip at Costco when they got the news. They run Sunday errands like an average married couple, and now the state of Alaska must recognize them as one.

Two days after he heard arguments in Anchorage, U.S. District Court Judge Timothy Burgess overturned a 1998 Alaska constitutional amendment defining marriage as between one man and one woman. The case was brought by five-same sex couples who sued to force Alaska to recognize their out-of-state marriages. One couple is not yet married.

The state intends to appeal the ruling, Gov. Sean Parnell spokeswoman Sharon Leighow said in an email to The Associated Press. Parnell said in a statement Sunday that he must defend the Alaska Constitution.

“Although the district court today may have been bound by the recent 9th Circuit panel opinion, the status of that opinion and the law in general in this area is in flux,” he said.

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Though she was optimistic that the ban would be overturned, Kimberly said she was “completely blown away” by the news, which Marguerite received by text as they unpacked their groceries.

“It feels amazing,” Marguerite said in the Imperial Bar, where the Juneau couple met with friends for an impromptu celebration Sunday afternoon. “There aren’t enough exclamatory words to describe it.”

The Juneau office of the Bureau of Vital Statistics is open at 8 a.m. Monday and is moving forward with same-sex marriage licenses.

The ruling

Burgess’ 25-page ruling comes after a Tuesday decision by the 9th U.S. Circuit Court of Appeals that struck down same-sex marriage bans in Idaho and Nevada as unconstitutional. The 9th Circuit’s ruling is binding in Alaska, and Burgess’ decision followed suit.

“With this ruling, the Court hereby declares that Alaska’s same-sex marriage laws are unconstitutional for violating the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution,” the ruling states. “The court immediately enjoins the state of Alaska ... from enforcing (the ban on gay marriage) to the extent that the laws prohibit otherwise qualified same-sex couples from marriage and refusing to recognize lawful same-sex marriages entered in other states.”

He addressed the state’s argument that there is no fundamental constitutional right to same-sex marriage.

“It is true, as Defendants argue, that in categorical terms ‘the Supreme Court has never held that there is a fundamental constitutional right to same-sex marriage,’” Burgess wrote. “This does not, however, equate to the notion that no such right exists.”

He also addressed the state’s arguments concerning childrearing and the traditional definition of marriage. He said that contentions that children should be raised by a mother and a father “are unsupported by empirical evidence.”

He wrote that a moral stance cannot be the basis for a law.

“Regardless of the majority’s beliefs, a state may not refuse the right to marriage for an interracial couple, nor for individuals that have not upheld their child-support obligations, nor for the incarcerated,” Burgess’ ruling states. “Even if many Alaskan citizens have moral or religious sentiments that conflict with homosexuality, the mere ‘fact that majority in a state has traditionally viewed a particular practice as immoral is not a sufficient reason for upholding a law prohibiting the practice.’”

Parnell took the court’s decision as an opportunity to blast his opponent in the gubernatorial race. The Parnell campaign has, in recent days, pointed out that independent candidate Bill Walker has been silent on the issue of gay marriage in Alaska, despite his backing by the Alaska Democratic Party and his partnership with lieutenant governor candidate Byron Mallott, who has been an outspoken proponent of marriage equality.

“While Gov. Parnell is defending and upholding Alaska’s Constitution, Bill Walker has remained silent on this crucial issue,” Parnell campaign spokesman Tom Wright said in a news release. “It’s time for Bill to make a decision and let Alaskans know if he will defend Alaska’s constitution and the will of the people.”

‘Full security’

The Crawfords were unofficially married in Juneau in front of the Dimond Courthouse in August 2012 after two years together, and they had a legal ceremony in Connecticut in May 2013. Now that the state must recognize it, their marriage license “means the same thing as it does for everyone else,” Marguerite said.

“It means not having to explain our relationship,” she said. “We can use the same terms as everybody else.”

It also means “full security,” she said. Now, if one of them ends up in the hospital, there will be no question whether the other can visit or make medical decisions, Marguerite said.

The two work for the state, which provides benefits to its employees in same-sex relationships if they can show five pieces of documentation that prove they are in a committed relationship — and marriage licenses from other states don’t count. Kimberly said they had refused to follow those rules.

“(Submitting the five pieces of documentation) validates their decision to make us second-class citizens,” Marguerite Crawford said.

“We haven’t provided that; we refuse to,” Kimberly said. “Now we don’t have to.”

• The Associated Press contributed to this story. Contact reporter Katie Moritz at 523-2294 or at katherine.moritz@juneauempire.com (<mailto:katherine.moritz@juneauempire.com>).

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