

Goodridge v. Department of Public Health, new

Goodridge v. Department of Public Health (2004)

Facts: Goodridge couple tried to get a marriage license from the MA Dpt. Of Public Health were denied because they were both women. They sued, claiming that the exclusion of same sex couples violates the state Constitution. The state held the following rationales: 1) "favorable setting for procreation," 2) optimal setting for child rearing, and 3) preserve scarce state funds.

Issue: Does the exclusion of same sex couples violate the state constitution? (this is a Due Process case, claiming to use Rational Basis Review, but actually sounds a lot more like strict scrutiny).

Argument: Marshall

1. MA law already allows adoption etc. by all combos of genders. Says that "optimal" is arbitrary.
2. Closeness of fit is not there between marriage and child bearing:
 - a. Ignores that same sex couples have adopted kids
 - b. Funding to married couples is not conditional.

Concurring: Greany

This is a sex discrimination case. MA has a state ERA, in which sex is listed as a suspect class. Hillary Goodridge's partner must be a man, cannot be Julie Goodridge.

Dissenting:

1. Sosman
 - a. If this was tax policy, rational basis would be applied a lot more loosely, so it should be done the same here.
 - b. It's up to the legislatures to decide what gets subsidized. Legislature could reasonably stick with the old.
2. Cordy
 - a. Doctrinally challenging the privacy and right to marry rationale put forth by Marshall.
 - i. Marriage is not private, it's about the state giving you status
 - ii. Right to marry is linked to pro creation.

Significance: Gay marriage is legal in Massachusetts. Strict scrutiny is dressed up as Rational Basis.