

2009 WL 5948309 (C.D.Cal.) (Verdict and Settlement Summary)

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United States District Court, C.D. California, Southern Division.

Arthur Smelt and Christopher Hammer v. United States of America, State of California and Does

No. SACV 09-00286 DOC (MLGx)

DATE OF VERDICT/SETTLEMENT: August 24, 2009

TOPIC: CIVIL RIGHTS - GOVERNMENT - STATE AND LOCAL GOVERNMENT - CONSTITUTIONAL LAW - DUE PROCESS - CONSTITUTIONAL LAW - EQUAL PROTECTION - CONSTITUTIONAL LAW - PRIVACY - FIRST AMENDMENT - FREEDOM OF SPEECH

Same-sex Couple Asserted Federal Act Violated Their Rights

SUMMARY:

RESULT: Decision-Defendant

Award Total: \$0

The court dismissed the suit, as Judge David O. Carter ruled that U.S. District Court lacked jurisdiction to consider the broader constitutional questions.

EXPERT WITNESSES:

ATTORNEYS:

Plaintiff: Richard C. Gilbert; Gilbert & Marglowe; Santa Ana, CA (Arthur Smelt, Christopher Hammer)

Defendant: W. Scott Simpson; Department of Johnson; Washington, DC (State of California, United States of America)

JUDGE: Andrew J. Guilford; David O. Carter; Marc L. Goldman

RANGE AMOUNT: 0

STATE: California

COUNTY: Not Applicable

INJURIES: Smelt and Hammer argued that the denial of such rights, benefits and responsibilities caused them severe emotional distress, mental anguish, humiliation, loss of liberty and the pursuit of happiness, denial of equal protection of laws, denial of freedom of association, denial of privacy rights, and denial of the right to travel to establish residency anywhere in the U.S. with the full recognition of the legality of their marriage.

Facts:

On Jan. 10, 2000, plaintiffs Arthur Smelt and Christopher Hammer, a same-sex couple, received a Declaration of Domestic Partnership from the State of California. They subsequently got married under state law before Proposition 8, which banned same-sex marriage in California, was passed on Nov. 4, 2008.

The plaintiffs alleged that “the refusal of all states and jurisdictions” to recognize the validity of their marriage results in the denial to them of numerous rights, benefits and responsibilities bestowed on all other married couples, so long as they are opposite-sex couples.

They sued the United States of America and the State of California. (On July 15, 2009, their claims against the state were dismissed for lack of standing.)

Plaintiffs’ counsel asserted that they are denied the right to Social Security survivor benefits, decision-making authority for funeral arrangements and the disposition of a spouse’s body, the right to bereavement leave in the event of a spouse’s death, the presumption that both spouses are the parent of a child born during marriage, and the right to a certain division of their spouse’s separate property and the couple’s marital property upon the death of a spouse who dies intestate. They targeted their action at the federal Defense of Marriage Act (DOMA).

Plaintiffs’ counsel argued that DOMA violated the Constitution’s Full Faith and Credit Clause; their constitutional right to travel; the Due Process Clause of the Fifth Amendment, including its equal protection component; their constitutional right to privacy; their right to free speech; and their rights under the Ninth Amendment.

The defense argued that U.S. District Court lacked jurisdiction over the plaintiffs’ claims, that the plaintiffs lack standing to assert their claims, and that the plaintiffs failed to state a claim upon which relief may be granted.

They sought a permanent injunction compelling the U.S. to “take all necessary acts to require the entire nation of the United States of America, all of its territories and jurisdictions, to eliminate any distinction in the law that prejudices the rights of plaintiffs.”

They additionally sought declaratory judgment “establishing that any law that restricts plaintiffs’ rights or distinguishes plaintiffs’ rights in any way from any opposite gender couple to be unconstitutional, under the United States Constitution, including all provisions of the [DOMA].”

ALM Properties, Inc.
United States District Court, Central District, Santa Ana

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