

chicagotribune.com

Immigrant files proposed class action suit over U.S. gay marriage ban

Alex Dobuzinskis

Reuters

7:03 PM CDT, July 12, 2012

LOS ANGELES (Reuters) - A Philippine immigrant filed a lawsuit on Thursday seeking a legal right to stay in the United States based on her same-sex marriage to an American.

The suit seeks to win for gays and lesbians the same immigration rights as heterosexual couples. The group that helped file the suit against the U.S. Department of Homeland Security called it the first proposed class action of its kind.

Plaintiffs Jane DeLeon, an immigrant from the Philippines, her son Martin Aranas, 25, and DeLeon's U.S. spouse Irma Rodriguez challenged the federal Defense of Marriage Act (DOMA), which defines marriage as the union of a man and a woman.

President Barack Obama said last year he considered the 1996 law unconstitutional and would no longer defend it. But the lawsuit filed in federal court in Los Angeles faults the Obama administration for reviewing immigration cases involving same-sex couples on a case-by-case basis, rather than placing them on hold while courts determine DOMA's constitutionality.

Peter Schey, executive director of the Center for Human Rights and Constitutional Law and the lead attorney in the case, said the waiver DeLeon was seeking to stay in the country was often granted to heterosexual couples.

"Our immediate concern is with the failure of the administration to implement a policy to provide protection from deportation for immigrants in same-sex marriages, as they've done recently for undocumented youth," Schey said.

Several federal court rulings have called into question the constitutionality of DOMA. On May 31, a federal appeals court in Boston found DOMA unconstitutionally denied federal benefits to lawfully married same-sex couples. The ruling is expected to lead to a U.S. Supreme Court decision on DOMA.

Six states and the District of Columbia allow same-sex marriage.

MARRIED SINCE 2008

DeLeon and Rodriguez were married in California in 2008, during the months when same-sex marriage was legal in the state before voters approved a constitutional amendment to ban it.

Immigration authorities in April 2011 denied DeLeon's application for an immigration visa on the grounds that in 1989, she falsely claimed to be a married housewife when entering the United States as the common-law partner of a Filipino, the lawsuit said.

DeLeon began a 20-year relationship with Rodriguez in 1992.

She filed paperwork seeking a waiver on the grounds that if forced to leave it would cause hardship to Rodriguez. The waiver was denied in September, her lawsuit said.

Department of Homeland Security spokesman Peter Boogaard said his office did not comment on pending litigation.

Martin Aranas, who came to the United States at age 9, said his legal residency depended on the outcome of his mother's case.

"After many years of having temporary legal status, I now face being in 'illegal' status only because my mother is in a same-sex marriage," he said in a statement.

Schey said his group estimated there were thousands of gay and lesbian couples in the United States in which one partner was American and the other was an immigrant.

His group would like the lawsuit to win class-action designation from a judge so it could apply to those couples, he said.

Before this lawsuit, there were a few other federal court challenges to the application of DOMA to deny legal residency to a gay or lesbian immigrant in a relationship with an American, including a lawsuit filed in New York this year. But none sought class-action status, Schey said.

www.chicagotribune.com/news/sns-rt-us-usa-immigration-gaymarriagebre86c004-20120712,0,4061931.story