

Same-Sex Marriage Case a Victory -- Unanimous Decision from the Iowa Supreme Court

On April 13, 2009, the Iowa Supreme Court issued its decision in the *Varnum v. Brien* case. Our clients received a unanimous decision of all seven justices of the Iowa Supreme Court. The Court found the Iowa statute limiting civil marriage to a union between a man and a woman violates the equal protection clause of the Iowa Constitution. The full text of the decision can be found [here](#) (pdf).

In early December 2008, oral arguments were heard before the Iowa Supreme Court in this high profile case regarding same-sex marriage. The case received a great deal of publicity prior to the argument. All seven Justices on the Court asked questions of the lawyers. It was clear from the questions that the Justices were very well prepared. There were detailed discussions of decisions by both the Supreme Court and the Iowa Supreme Court, as well as questions on the relevant social science and policy considerations.

Dorsey's Des Moines office's team argued the case in the Iowa Supreme Court. We co-counseled the case with our pro bono client Lambda Legal, a national organization committed to the civil rights of lesbians, gay men, bisexuals, transgender people and those with HIV. The plaintiffs in the case are six same-sex couples who applied for and were denied marriage licenses in Iowa. Each couple has been in a committed relationship together for five to sixteen years. The plaintiffs also included the minor children of two of the couples. The Iowa Code explicitly states that only a marriage between a man and a woman is valid. Plaintiffs argue that such statute denies their fundamental rights under the Due Process Clause of Iowa's Constitution, which states that no person shall be denied of life, liberty, or property without due process of law. Both the Iowa Supreme Court and the United States Supreme Court have recognized that the right to marry is a fundamental right, but the defendant argued that the Iowa Supreme Court is precluded from determining that the right for same-sex couples to marry is also a fundamental right.

Dorsey represented an 11-year-old boy who was arrested and held overnight for failing to respond to an improperly served witness subpoena. The subpoena was issued in an assault case in which the boy was the victim. The County Jail held the boy in the adult “drunk tank” for several hours in violation of state law requiring that juveniles be separately held. After a night in a juvenile facility, he was taken to court in full prisoner restraints. The County Attorney’s Office, who had sought the warrant for his arrest, decided he should simply be released to his parents. No charges were ever filed against him for any crime whatsoever. Dorsey filed a civil rights claim under 42 U.S.C. § 1983 and various state law claims against the County on behalf of the boy and ultimately settled with the County.