



Faith and Justice Call Us to Court

Lutheran couple first to challenge Arizona marriage ban.

BY JOSEPH CONNOLLY

In January of 2014, Joseph Connolly (above right) and Terry Pochert (above left) were the first couple in Arizona to file a lawsuit to remove the state's ban on same-gender marriage. In October of that same year, U.S. District Judge John W. Sedwick did just that, declaring Arizona's ban on same-sex marriage unconstitutional, immediately ordering the state not to enforce it.

Terry and I are often asked, “What led you to bring a case challenging the Arizona ban on same-gender marriage?” Our answers: God, faith, freedom of religion, equal rights, social justice, strong moral compasses, adopted children, limited parental rights. Impulsiveness.

But Terry and I credit two church communities, Faith Lutheran and University Lutheran, both in the Phoenix area, for the victory for marriage equality in Arizona in 2014. Here's how we got there....

In 1995, Terry and I met in the Detroit, Michigan, suburbs. Terry was the organist at his small ELCA congregation in Novi, Michigan. While Terry welcomed me to attend his church, I was hesitant. I joked I didn't want to be the organist's boyfriend but, in reality, I wasn't ready to go back. I was afraid I wouldn't feel welcome. I was afraid our relationship would have an impact on his position and his membership in the congregation.

By the time Terry and I met, I had walked

away from my denomination. I was raised Roman Catholic in the suburbs of Pittsburgh, Pennsylvania. I always sensed a great loss in walking away. Terry was raised Lutheran Missouri Synod and joined the ELCA as an adult. In my departure from the Roman Catholic Church, I missed that sense of community that comes in a congregation. But I felt pushed away, not only on the “gay” issue but on women's reproductive rights, the Catholic Church's stand on suicide, not allowing priests to marry, etc....

After our move from Michigan to Arizona in 1997, we found a Reconciling in Christ (RIC) congregation, Faith Lutheran Church, in Phoenix at 7th and Camelback. Our first visit opened the door for me to

return to a faith community. It started with two men welcoming us and clearly recognizing us as a gay couple. During communion, Rev. Richard Staats instinctively communed Terry and me together, as a couple, without words ever being exchanged. Communing us together was simply a natural gesture on Pastor Staats' part. That single, simple gesture opened up the door to allow me to trust a faith community again.

We stayed there for several years. In 2000, we moved to another congregation, University Lutheran Church (ULC), which is a bit closer to our home.

Like Faith Lutheran, ULC is RIC. They had just completed the process to call a new pastor, Rev. Gary McCluskey. ULC maintains an active campus ministry to students of the surrounding colleges, drawing primarily from Arizona State University. Small in size but incredibly open minded, we fell right into place at ULC. We love the mix of seniors, young people, couples, singles, professionals, and other LGBT people. Welcoming became especially important to us here.

In this congregation there were also two teenagers, whom we watched grow up, go to college, and follow in their father's footsteps in the legal profession.

The 2003 Goodrich decision in Massachusetts, the first by a U.S. state supreme court to find that same-sex couples have the right to marry, gave us hope that maybe, just maybe, one day we would have the chance to marry. Terry and I purchased wedding rings and locked them away for safe keeping, hoping one day we would be able to use them.

In 2008, Terry and I decided to marry in California during the legal window that opened that year. We married in St. Mark's Lutheran Church in San Francisco. Out of concern for Pastor McCluskey, we chose not to ask him to perform our marriage ceremony. We could not ask Gary to risk his career for our marriage, a distinct possibility at that time. He could be censured, lose his call, or lose his retirement. Marriage was important to us, for us, in the church; but we could not ask Pastor Gary.

Fortunately, retired pastors don't have as much to risk as pastors in an active call. And so, in stepped Rev. Staats. Rev. Staats was retired and, as luck would have it, was attending a conference in California. He agreed to perform our ceremony. On July

4th, 2008, Terry and I married in California, with Pastor Staats, our friend Nancy Nipper as our witness, and the church custodian in attendance. The church was empty. It was thrilling to be married in church by a pastor we loved. Still, the empty church left a little emptiness in our hearts because our families and friends were not present.

In 2009, Terry attended the ELCA churchwide assembly in Minneapolis, as a voting member, where history was made. The ELCA voted to allow same-sex marriage in churches in states where legal, civil marriages were permitted. The vote also allowed clergy and lay ministers with same-sex partners to be rostered.

After the Windsor decision in June of 2013, where the U.S. Supreme Court overturned a major part of federal Defense of Marriage Act, Terry and I contacted a national rights organization who had offices in Arizona. We inquired about a lawsuit to fight the state ban on same-sex marriage and offered to serve as plaintiffs. The organization responded by telling us they had no interest at that time in fighting the ban. They were busy in other states with similar lawsuits and we assumed they had other issues in Arizona.

Shortly after that, we came to know another same-sex couple at ULC. The two women had five children in their household, some of whom were adopted. We learned that only one parent had full legal custody

think about that and get back to you.”

Ten days later, after an exchange of emails, Shawn indicated he did have someone in mind. Himself. He was interested in taking the case.

We met with Shawn to lay out the issues as we saw them. The ban was first a violation of our freedom of religion, denying us and other same-sex couples access to the rite of marriage in our faith. The ban enabled the state to ignore our California marriage even while it recognized out-of-state marriages of our heterosexual counterparts. Terry and I felt we were not being treated equally under the law and the Windsor decision was the event that opened the door for us.

In a very short period, we needed to find other plaintiffs with compelling stories. A call to a former member of ULC with ties to the adoption industry put us in touch with two couples with children they had adopted. One couple married in California. The second wished to marry and were contemplating a move from Arizona to another state to find better protections for their children and a state that offered two-parent, same-sex adoption. A paralegal found a fourth couple who wished to marry. A month later, three additional couples were added.

We were unprepared for the publicity that followed the filing on January 6, 2014. What we did count on, and did receive, was

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of the adopted children. Due to discriminatory Arizona laws, only one parent could have full parental custodial and decision-making rights; the other parent was technically a legal stranger.

Their legal situation made us sad and angry. We realized the marriage ban affected more than just Terry and me. Impulsively, at a Wednesday evening Advent service of Lessons and Carols in December 2013, we asked Shawn Aiken, a litigation attorney and the father of the two children who grew up to attend law school, if he knew of anyone who could help us file a lawsuit against the State of Arizona regarding the ban on same sex marriage.

A bit stunned, Shawn replied, “Let me

support from our church community, current and former. Members from Faith Lutheran reached out and congratulated us. The ULC church community congratulated us. ULC members shared how proud they were of what Shawn, his son and daughter, and Terry and I were doing. I reminded them a former member had their hands in this, too.

Some cried because they have family members who are LGBT. Others shared personal stories they didn't ever have to. We were blown away. People we didn't know thanked us. As it turns out, many of the *Connolly* plaintiffs are, or were, people of faith, and some had met through church.

For two men who have always been more



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comfortable serving, being behind the scenes, being in front was an awkward experience for us. Terry and I both agree: the year 2014 was blur. One of our plaintiff couples decided they would not wait until the ruling and held a commitment ceremony that same year in October, less than a week before the ruling. At the wedding reception, a young, engaged same-sex couple approached Terry. With tears in her eyes and holding her partner's hand, she said, “Because of you, we can just get married in April.” We drove home that night and talked about nothing else. The impact of the lawsuit hit us in those ten words this young woman shared.

The question we put to Shawn Aiken was spontaneous, spur-of-the-moment: “Do you know of anyone ... ?” If it weren't for the welcome and support of two RIC communities, we may never have joined a church. We knew they had our backs and that gave us the courage. The adopted children of the other couple at church were our kick in the pants to act. Our moral compasses were re-aligned, pointing in the right direction. This was a social justice issue. This was part of our faith journey. The impulsiveness? Well, that was God in action. ■