

County clerk ready to issue same-sex marriage licenses

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Sandoval County Clerk Eileen Garbagni said Friday she was ready to issue marriage licenses to same-sex couples in light of Thursday's state Supreme Court ruling.

"I was just waiting on the order," she said. "I have my paperwork ready."

As of Friday morning, she had not yet received the official order from the court and had not yet issued a same-sex marriage license, she said.

New Mexico is the 17th state to legalize same-sex unions. The high court ruling, which came nearly two months after the court heard arguments, capped a frenzied year of legal wrangling over the state's definition of marriage.

More than 1,400 gay and lesbian weddings took place as some county clerks decided to act in the absence of a final legal determination.

Although Garbagni didn't go along with those clerks, the county was one of the first to issue same-sex marriage licenses nearly a decade ago under Sandoval County Clerk Victoria Dunlap, a Republican. She approved 64 licenses before then-Attorney General Patricia Madrid, a Democrat, stepped in and warned that the licenses were invalid under New Mexico law.

Several months ago, Garbagni said she would not issue licenses without a ruling. She said she had prepared the paperwork to issue the license, but would not act without a court or Legislative decision.

Thirteenth Judicial District Judge George Eichwald was also waiting on the decision. He put a hold on a court case involving a lesbian couple from Placitas.

Gail Gering and Carolyn Van Housen requested that the court order Garbagni to issue them a marriage license. But at a status conference on Sept. 12, Eichwald said he preferred to hold off on a ruling that potentially could be overturned.

The determination Garbagni, Eichwald and many others were waiting for came Thursday.

"We hold that the state of New Mexico is constitutionally required to allow same-gender couples to marry and must extend to them the rights, protections, and responsibilities that derive from civil

marriage under New Mexico law,” Justice Edward Chávez wrote in the unanimous, 31-page opinion by New Mexico’s highest court.

The court swept aside state laws that opponents said prohibited same-sex marriage in New Mexico, saying they violated the Equal Protection Clause of the state Constitution. That clause, adopted before statehood, means that government cannot treat people differently based on sexual orientation, the justices said.

“I don’t think you can overstate the importance of this opinion, particularly in the lives of thousands of same-sex couples in our state and the many thousands more to come in the future,” said Peter Simonson, executive director of the American Civil Liberties Union of New Mexico.

“At the crux of this decision is the guarantee that same-sex couples will be able to make a lifetime promise of love and commitment to each other in the presence of family, before their government and before the public without fear of discrimination,” Simonson said.

But one opponent said the battle isn’t over. State Sen. Bill Sharer, R-Farmington, said the Supreme Court overstepped its authority on the issue.

When the Legislature convenes in January, Sharer said he will propose an amendment to the state Constitution to define marriage as being between one man and one woman. If adopted by state legislators, it would go to voters for final approval — with a citizen vote also being the method favored by Gov. Susana Martinez.

“We shall continue the debate,” Sharer said. “Until the people accept it, it is not settled.”

Sen. Craig Brandt and state Reps. Tim Lewis and Jason Harper, all Republicans from Rio Rancho, have also expressed concern over marriage licenses for same-sex couples.

All three have said they are Christian and believe marriage should only be between a man and woman.