

Baehr. v. Miike, No. 20371
Hawaii Supreme Court (December 9, 1999)
[footnotes and citations omitted]

Pursuant to Hawai'i Rules of Evidence (HRE) Rules 201 and 202 (1993), this court takes judicial notice of the following: On April 29, 1997, both houses of the Hawai'i legislature passed, upon final reading, House Bill No. 117 proposing an amendment to the Hawai'i Constitution (the marriage amendment). The bill proposed the addition of the following language to article I of the Constitution: "Section 23. The legislature shall have the power to reserve marriage to opposite-sex couples." The marriage amendment was ratified by the electorate in November 1998.

In light of the foregoing, and upon carefully reviewing the record and the briefs and supplemental briefs submitted by the parties and amicus curiae and having given due consideration to the arguments made and the issues raised by the parties, we resolve the defendant-appellant Lawrence Miike's appeal as follows:

On December 11, 1996, the first circuit court entered judgment in favor of plaintiffs-appellees Ninia Baehr, Genora Dancel, Tammy Rodrigues, Antoinette Pregil, Pat Lagon, and Joseph Melillo (collectively, "the plaintiffs") and against Miike, ruling (1) that the sex-based classification in Hawai'i Revised Statutes (HRS) § 572-1 (1985) was "unconstitutional" by virtue of being "in violation of the equal protection clause of article I, section 5 of the Hawai[']i Constitution," (2) that Miike, his agents, and any person acting in concert with or by or through Miike were enjoined from denying an application for a marriage license because applicants were of the same sex, and (3) that costs should be awarded against Miike and in favor of the plaintiffs. The circuit court subsequently stayed enforcement of the injunction against Miike.

The passage of the marriage amendment placed HRS § 572-1 on new footing. The marriage amendment validated HRS § 572-1 by taking the statute out of the ambit of the equal protection clause of the Hawai'i Constitution, at least insofar as the statute, both on its face and as applied, purported to limit access to the marital status to opposite-sex couples. Accordingly, whether or not in the past it was violative of the equal protection clause in the foregoing respect, HRS § 572-1 no longer is. In light of the marriage amendment, HRS § 572-1 must be given full force and effect.

The plaintiffs seek a limited scope of relief in the present lawsuit, i.e., access to applications for marriage licenses and the consequent legally recognized marital status. Inasmuch as HRS § 572-1 is now a valid statute, the relief sought by the plaintiffs is unavailable. The marriage amendment has rendered the plaintiffs' complaint moot.

Therefore,

IT IS HEREBY ORDERED that the judgment of the circuit court be reversed and that the case be remanded for entry of judgment in favor of Miike and against the plaintiffs.