

Happy, But Not Satisfied

Gay-rights activist Evan Wolfson discusses the political implications of the New Jersey Supreme Court's decision on same-sex marriages.



Jeff Fusco / Getty Images

Gay-marriage supporters outside the New Jersey Supreme Court on Oct. 25

WEB EXCLUSIVE

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Oct. 30, 2006 - Will last week's New Jersey Supreme Court decision on gay marriage have an impact on next week's election? The ruling opened the door to make the state the second in the nation—after Massachusetts—to allow gay marriage by finding that the legislature must offer same-sex couples some form of marriage or civil union.

Gay marriage was one of the hot-button issues in 2004, but Evan Wolfson, executive director of the gay-rights group Freedom to Marry and author of "Why Marriage Matters" (Simon & Schuster, 2004) doesn't believe it's likely to resonate at the polls on Nov. 7. He spoke with NEWSWEEK's Debra Rosenberg about the court decision, the upcoming vote and the struggle over gay marriage. Excerpts:

What do you make of the New Jersey decision?

I think it's a very powerful decision that illustrates the difference between happy and satisfied. I'm happy to see a unanimous high court ruling that gay couples must be treated fairly. But I'm not satisfied because the high court opened the door to

equality but didn't finish the job [because it referred the decision to the legislature]. There's only one way to provide equality and that is by equal treatment.

So not calling it marriage makes a big difference?

One of the main protections that comes with marriage is the word "marriage" and the security and certainty that come with that. There's not a married couple in the country that would trade in their marriage for a civil union or something else. Marriage is more than just the legal protections and responsibilities. It's a statement, a commitment that everyone recognizes. The best way to think about it is ask yourself this question. Either marriage and civil unions are the same—in which case why do we need two lines at the government clerk's office—or they're not the same, in which case why is the government withholding from these families and what reason does it have for doing that. It's funny because when we're discussing this question on the one hand, pretty much everyone agrees that marriage matters. And people have emotions and a rich set of feelings about marriage. But when the question is can gay people be denied marriage, people say it doesn't matter at all. How can it matter and not matter?



Jeff Sheng

Evan Wolfson, executive director of the gay-rights group Freedom to Marry

The New Jersey decision came out two weeks before the election. Will it have an effect on the outcome?

It [will have] virtually no effect on the election despite the hyperventilating of the anti-gay marriage industry and political statements from the president, who would like to shift the country's attention from Iraq and economic insecurity and political scandal. They've gone to this well too many times. People are not going to be fooled this time around. In 2004, we know despite the mythologizing, it didn't have an effect in those states where it was on the ballot. In terms of actually driving turnout or shifting votes, that was all right-wing spin. Even the president's pollster Matt Dowd says this. The election of 2004 turned on questions of national security, not on the trumped-up threat allegedly posed by gay couples seeking to settle down. We're going to see a wave of anti-gay attacks in the states with these ballot measures, which are aimed at not only denying marriage but denying gays any protection large or small. But I don't see them having an effect [on the election]. Nor will they stop this effort to reach marital equality.

One of the things that didn't get reported by anybody last week is that the New Jersey Supreme Court 10 years ago ruled against a [sexual-orientation] discrimination case by Rutgers University professors. The court refused their plea. In less than 10 years you now have a unanimous court saying gay couples must be

treated equally. That just shows the tremendous progress that's being made in this country as people are thinking it through and looking at the lived experiences in places like Canada and Massachusetts, where families are helped and no one is hurt. Are we going to win every battle every minute? It is going to happen overnight? Of course not.

What effect does it have on the gay-rights movement when these anti-marriage amendments pass so overwhelmingly?

One of the things we should look for is whether the margin of the vote is smaller than the first wave of attacks. It's still an uphill battle to expect the minority to win a vote asking the majority to stop discriminating. If we see the margin going down, we're going to see that people are moving in the right direction, even if not overnight.

Will you win any of the ballot measures?

It's an uphill battle. We need to be prepared to lose most, if not all of these this round. We need to prepare for the next battle. We need to show who the real people are who are affected by these cruel attacks. This is not a freebie vote about how they feel about gays in Massachusetts, but it's about they feel about treating gay couples and their kids down the block. Giving people a chance to see these real people is something we've only just begun to do. People may have seen Will and Grace, but they may have no idea how many gay couples there are in their own community. The anti-gay industry is trying to deprive the fair-minded people of Wisconsin, South Carolina and other places. Our job is to help people see it for real. They'll realize they were stamped.

Do you have to win in court before you can win at the polls?

As in every civil rights struggle, we will see wins in the courts, wins at the ballot box, wins in the court of public opinion. We did see a legislature pass a marriage bill. The California legislature did pass a marriage bill and the governor vetoed it and said this should be decided by the courts. New Jersey's court said it should be decided by the legislature. There's some buck-passing going on as to who should end the discrimination. We need to work in all these arenas and they're all legitimate. The New Jersey Supreme Court did not order an end to marriage discrimination and the right-wing opponents went on the same warpath anyway. They were disappointed.

So you don't think this will affect turnout next week, even at the margins?

There are some people in the country who can be persuaded that voting their anti-gay feelings is more important than anything else. But there are even fewer of them this time around. Whatever you want to say about 2004, it's even less salient now.

What about the Democrats? They haven't exactly been speaking out in favor of gay marriage either.

The Democratic candidates for governor in states such as Connecticut, New York, California and Massachusetts are all running as openly clearly pro-marriage. It's an improvement. You have the [Democratic] mayors of Los Angeles and Chicago all speaking out for marriage. At the state level, something like six or seven Democratic state party affiliates have passed resolutions calling for marriage equality. Hillary Clinton said she would not oppose marriage in a state like New York should the legislature and the governor enact it. That is evolution. It does reflect movement in the right direction. Are the Democrats speaking out as clearly as they should? No. They would do better if they stood on the principles everybody believes they have

anyway. They'd be much better off if they make clear that they stand by their principles. It's easier to change the subject if you've been clear about what you believe and then you move on.