

Gay couple get two-year deportation reprieve

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Body

SAN FRANCISCO -- An immigration judge on Wednesday delayed the deportation of a Venezuelan man, giving him and his gay partner more time to make a case that they should be considered a married couple under federal immigration laws.

Alex Benshimol, 47, a Venezuelan citizen, and Doug Gentry, 53, a U.S. citizen, were legally married last year in Connecticut.

By applying for a green card for Benshimol, who moved to the United States in 1999 on a visa that has since expired, the Southern California couple said it was challenging the constitutionality of the federal Defense of Marriage Act, which bans same-sex marriage. Married U.S. citizens can sponsor their spouses for a green card and eventual citizenship, but the federal government does not recognize green card applications by same-sex spouses.

Judge Marilyn Teeter instructed Immigration and Customs Enforcement to inform her court within 60 days about whether it plans to pursue Benshimol's deportation or close the case. Lavi Soloway, the couple's lawyer, cited a memo issued by the nation's director of immigration enforcement last month that told agents to use discretion when seeking to deport illegal immigrants. While the memo makes no mention of gay couples, it does tell agents to use discretion when immigrants have family members in the United States. The couple hopes that more time will give the government a chance to clarify its position on deporting gays and lesbians who have U.S. citizen spouses.

Teeter also put the deportation on hold by at least two years by ordering the couple to come back for a hearing in September 2013.

"That effectively gives this couple a two-year reprieve and removes this dark cloud that has been hanging over their head for years," Soloway said. "This allows them to go live their daily life."

The couple lives in Cathedral City, near Palm Springs.

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