

# Ohio Supreme Court to decide parents' rights question for some LGBTQ couples

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The Ohio Supreme Court will consider a Hamilton County case with ramifications for LGBTQ couples with children who did not marry before the [2015 landmark](#) U.S. Supreme Court ruling that legalized same sex marriage.

"I think people are watching this case," said Jonathan Hilton, attorney for Carmen Edmonds. It has the potential to eventually go to the U.S. Supreme Court because it deals with rights under the federal constitution, he said.

Edmonds and Priya Shahani were in a relationship from 2003 to 2015 but did not marry, particularly because Ohio prohibited same sex marriage at the time. The two women co-parented three children, each born by Shahani via artificial insemination.

In 2015 the couple split up and agreed to a shared custody plan. Shahani moved out, left the children with Edmonds and moved in with their nanny, according to court records. In 2017, Shahani moved to change the custody agreement and remove Edmonds' name from the children's surname.

Edmonds went to [court to assert that she has parental rights](#).

"I am their mother and I want to be recognized as their mother," she said. "I want to be recognized legally as a parent because I've done everything as a mom. They call me momma. I am their momma."

Hamilton County Juvenile Court ruled that Edmonds could not be recognized as a parent under Ohio law – even after the [Obergefell v. Hodges decision in 2015](#) that legalized same sex marriages nationwide.

The First District Court of Appeals overturned the juvenile court ruling, saying that Obergefell should've been given a full retroactive effect. The appeals court said the trial court should've first determined if the couple would've been married had it been legal and then determined the question of whether Edmonds should be recognized as a parent.

Hilton said he agrees with the appeals court ruling.

"When you have a situation where one parent in the relationship has more legal rights than the other, it opens the door for all kinds of shenanigans," Hilton said. "My client is always going to be at a disadvantage compared to Ms. Shahani."

Shahani argues that the Supreme Court decision was not violated because her and Edmonds were not married in any state and they were never denied a marriage license in Ohio.

Shahani appealed to the Ohio Supreme Court. She is arguing whether they would've married is irrelevant and that Edmonds could only get parental rights by recognizing common law marriage. That's not possible, though, because Ohio banned common law marriages in 1991.

The case has drawn interest from the ACLU of Ohio, The Nathaniel R. Jones Center for Race, Gender and Social Justice, and the National Association of Social Workers, which have sided with Edmonds.

The seven-member Ohio Supreme Court will decide which court ruling is correct under state laws. It'll also consider whether Ohio's artificial insemination statute is unconstitutional. That law recognizes consenting husbands as the fathers of children produced via artificial insemination.

Edmonds' legal team argues that the state's artificial insemination statute is unconstitutional because it excludes and fails to protect pre-Obergefell same-sex couples. Edmonds urges the supreme court to extend the artificial insemination statute protections to same sex couples.

The children – a girl and a set of twins – are now age 13 and 11.