

Gay couple trying to avoid deportation given 2-year reprieve by San Francisco judge

By: [Dan Schreiber](#) | Examiner Staff Writer | 07/14/11 4:00 AM

In an immigration case being closely watched by same-sex marriage advocates, a federal judge in San Francisco on Wednesday granted a Venezuelan man a two-year reprieve to stay in the U.S. with his partner.

Alex Benshimol, 47, overstayed his 10-year visitor visa that expired in 2009 and now faces deportation proceedings. Benshimol married his partner, 53-year-old Doug Gentry, in 2005 in Connecticut, where same-sex marriage is legal. But because the federal government doesn't recognize such unions under the Defense of Marriage Act, immigration officials sought to send Benshimol back to Venezuela.



Spouses Doug Gentry and Alex Benshimol attend a rally Wednesday outside the court where Benshimol's deportation hearing took place. (Dan Schreiber/The Examiner)

But Wednesday, Judge Marilyn Teeter put the case on a long-term schedule by setting a hearing for September 2013, according to the couple's attorney. The judge said federal prosecutors have 60 days to decide whether to proceed with the deportation.

Delays in deportation cases involving same-sex couples are happening throughout the country while immigration judges await a resolution over the fate of the marriage act. President Barack Obama and Congress have been wrangling over its constitutionality. As it stands, Obama said in February he doesn't want the Department of Justice to argue cases that hinge on the law's Section 3, which limits marriage to unions between one man and one woman.

"I think that there are some judges that see DOMA is crumbling and the only thing to do at this point is to give the individual time," said Cara Jobson, a local LGBT immigration attorney.

A rally preceded the couple's deportation hearing outside the court, where speakers called for equal immigration rights for same-sex partners. They said if Gentry and Benshimol were a heterosexual couple, they would not be facing the same adversity.

"We just want to be married like anyone else," Gentry said. "We don't want anything special, just to be the same, to be equal."

The couple fears that if Benshimol returns to Venezuela's anti-gay culture, Gentry would have problems entering the country, and in either case, they will lose the lives and businesses they built in California. They live near Palm Springs, but Benshimol said his case is being handled in San Francisco because he had been in the process of starting a pet-grooming business in The City and

therefore had a local address listed.

Asked what he would do in case of deportation, Gentry said he hasn't thoroughly considered it.

"There's no answer for that," he said. "I can't comprehend it, so there's no answer."

Lavi Soloway, the couple's attorney, said even if prosecutors decide to proceed in 60 days, there could be a different legal landscape by the 2013 hearing.

"Hopefully we'll revisit this case in a different time, a different climate," Soloway said.

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