

Loving v. Virginia (1967)

Contributed by [Phyl Newbeck](#) and [Brendan Wolfe](#)

In *Loving v. Virginia*, decided on June 12, 1967, the U.S. Supreme Court unanimously struck down Virginia's law prohibiting interracial marriages as a violation of the [Fourteenth Amendment](#). The appellants, Richard and Mildred Loving, of Caroline County, had married in Washington, D.C., in June 1958 and then returned to Virginia, where they were arrested. After pleading guilty, they were forced to leave the state. The American Civil Liberties Union (ACLU) filed motions and appeals on their behalf beginning in 1963, and after the Virginia Supreme Court of Appeals ruled against the Lovings in 1966, the U.S. Supreme Court heard their arguments. The case came after nearly 300 years of legislation in Virginia regulating interracial marriage and carefully defining which citizens could legally claim to be white. Two U.S. Supreme Court cases, *Pace v. Alabama* (1883) and *Maynard v. Hill* (1888), upheld the constitutionality of such laws. In 1924, the [Act to Preserve Racial Integrity](#) banned interracial marriage in Virginia while defining a white person as someone who had no discernible nonwhite ancestry. It was this law that the U.S. Supreme Court ruling said denied Virginians' "fundamental freedom" to marry. *Loving v. Virginia* is a landmark case, both in the history of race relations in the United States and in the ongoing political and cultural dispute over the proper definition of marriage. [MORE...](#)



Facts of the Case

The appellants in *Loving v. Virginia* were Richard Perry Loving and his wife, Mildred Delores Jeter Loving. Born on October 29, 1933, in Central Point, Caroline County, Richard Loving was a white man who worked as a construction worker. Mildred Loving, born on July 22, 1939, also in Central Point, was part African American and part [Indian](#). (Later in her life she identified only as Indian.) After traveling to Washington, D.C., to obtain a legal marriage on June 2, 1958, they returned to Virginia, where mixed-race unions were against the law. They lived downstairs in the Central Point home of Mildred Loving's parents.

On July 11, the commonwealth's attorney for Caroline County, Bernard Mahon, obtained warrants for the couple's arrest. After attempting to apprehend them several times during the day, Sheriff Garnett Brooks found the Lovings at home in the early morning hours a few days later. After knocking on and then breaking through the door, Brooks and two deputies encountered the couple while they were still in bed. "They asked Richard who was that woman he was sleeping with," Mildred Loving later told an interviewer. "I said, 'I'm his wife,' and the sheriff said, 'Not here you're not.'"



[Mildred Loving and Her Daughter](#)

The two were held briefly in the jail at nearby Bowling Green. Mildred Loving later told an interviewer, "One afternoon this inmate had been out, on the outside working, and when the sheriff brought him back in he said, 'I should let you go in here with her tonight.' Scared me to death." Richard Loving was released after one night on a \$1,000 bond; several days later his wife was delivered into the care of her father, Warren Jeter.

In October 1958 the circuit court of Caroline County issued an indictment indicating that their marriage was in violation of state law. On January 6, 1959, the Lovings pleaded not guilty and waived a jury trial; however, at the end of arguments, they changed their pleas to guilty. Judge Leon M. Bazile gave them each a one-year suspended sentence provided that "both accused leave Caroline County and the state of Virginia at once and do not return together at the same time to said county and state for a period of twenty-five years."

After paying court fees of \$36.29 each, the Lovings moved to Washington, D.C., where they lived at 1151 Neal Street Northeast with Mildred Loving's cousin, Alex Byrd, and his wife, Laura Byrd. The terms of their sentence allowed them to travel to Virginia separately, and Mildred Loving returned to Central Point for the births of their children Donald and Peggy. (She had already given birth to a son, Sidney C. Jeter, in 1957, although there is some dispute about his birthdate.)

In 1963, at the suggestion of her cousin, Mildred Loving wrote a letter to the U.S. attorney general, Robert F. Kennedy, asking him to intervene on her and her husband's behalf. "I wasn't in anything concerning civil rights," Loving later told an interviewer. "I was, well, we were trying to get back to Virginia. That was our goal, to get back home." Kennedy referred Loving to the National Capitol Area branch of the ACLU, which in June 1963 assigned Bernard S. Cohen, of Alexandria, to the case. Philip J. Hirschkop, a lawyer then doing civil rights work in Mississippi, joined the case a few months later.



Judge Leon M. Bazile



Attorney General Robert F. Kennedy Addressing Crowd

Legal Background

The General Assembly passed its first law regulating interracial marriages in 1691. Although it did not ban such unions outright, the law required that the white partner leave Virginia within three months. A 1705 revision of slave laws included a provision that no longer required the white partner to leave; instead, it levied a ten-pound fine and six months in prison. In 1848, the General Assembly increased that penalty to a maximum of twelve months in prison, again just for the white partner. The following year, the assembly declared that all marriages between whites and African Americans were "absolutely void." In 1873, the punishment for such a marriage was established as a year in jail and a \$100 fine for the white partner and a \$200 fine for the person who officiated the wedding. (Half of the latter fine would benefit the person who alerted authorities to the crime.) Five years later, the

assembly moved to punish not only the white partner in interracial marriages, but both partners, making them each liable to serve between two and five years in the state penitentiary.

These laws did not prevent interracial marriages in Virginia; to the contrary, they were instituted because such marriages were a persistent reality. From 1865 to 1870, more than twenty-four interracial marriages were reported in the *Richmond Enquirer* alone. Such cases persisted statewide after the American Civil War (1861-1865), and in 1871 and in the few years immediately following, there were five interracial marriages reported in Augusta County and four in Buckingham. An article in the *Richmond Daily Dispatch*, dated June 14, 1871, tells of a white woman in Wythe County who, after she was discovered to have been living with a black man, was tarred and feathered and exiled from the county.

In 1874, Andrew Kinney, a black man, and Mahala Miller, a white woman, married in Washington, D.C., and returned to Augusta County, where they were arrested and charged with "lewdly associating and cohabitating." After being convicted and sentenced to pay a \$500 fine, the couple appealed to the Virginia Supreme Court of Appeals. In *Kinney v. Virginia*, decided on October 3, 1878, the court upheld Virginia's laws prohibiting interracial marriage and affirmed the priority of Virginia law over that of the District of Columbia or any other outside jurisdiction. Although the U.S. Supreme Court declined to hear the case, it did consider *Pace v. Alabama*, ruling in 1883 that Alabama's antiscegenation laws, because they punished black and white partners equally, did not violate the Fourteenth Amendment. In *Maynard v. Hill* (1888), the U.S. Supreme Court established that the jurisdiction of marriage belonged to states, meaning that no state was required to accept a marriage affirmed in another state.

In order to better regulate the interactions between whites and nonwhites, the General Assembly sought to clearly define what made people black, white, and Indian. An 1860 law defined a "mulatto" or a "negro" as any man or woman with one-fourth or more African American ancestry. An 1866 revision used the same percentage, but this time made no distinction between "mulatto" and "negro": all nonwhites were now either "colored" or Indian. In 1910, a "colored" person was defined as having just one-sixteenth or more African American ancestry, while an Indian was anyone with one-fourth or more Indian ancestry.

All of this was background to the General Assembly's passage, on March 20, 1924, of the Act to Preserve Racial Integrity. It reaffirmed the state's longstanding prohibition on interracial marriage, but radically limited a person's ability to legally claim him- or herself as white: "For the purpose of this act, the term 'white person' shall apply only to the person who has no trace whatsoever of any blood other than Caucasian." An exception was made for those people—generally elite whites counting Pocahontas as a relative—who were one-sixteenth or less Indian and had no African American ancestry. For the most part, however, Virginians were now either entirely white or "colored."



Application for Marriage License

This was the relevant statute when, on June 26, 1952, a Chinese-born man, Han Say Naim, married Ruby Elaine Lamberth, a white woman from Virginia, in North Carolina with the purpose of evading Virginia's antimiscegenation laws. After living in Norfolk for a year, Ruby Naim sued for an annulment on the grounds that the marriage had never been legal in Virginia. Han Say Naim argued that, contrary to *Maynard v. Hill*, Virginia ought to be required to acknowledge a legal marriage from another state. In *Naim v. Naim* , decided on June 13, 1955, the Virginia Supreme Court of Appeals granted the annulment and the U.S. Supreme Court declined to hear the case.

Appeals Process

The Lovings' lawyers faced early hurdles in their attempt to find relief for their clients. Virginia law required that any appeal be made within sixty days of a judgment, but the Loving conviction already was more than four years old. However, because Judge Bazile had issued a suspended sentence, he retained jurisdiction over the case, allowing Bernard Cohen to file a motion, on November 6, 1963, to vacate the conviction and set aside the sentence. This was a risky strategy. If the judge agreed to reopen the case, then the Lovings could be sentenced to as many as five years in jail. And because they initially had pled guilty, the couple would have no right to appeal.

In the end, Bazile refused to vacate the conviction, instead issuing on January 22, 1965, a racially charged ruling defending Virginia's antimiscegenation laws. "Almighty God created the races white, black, yellow, malay and red, and he placed them on separate continents," he wrote. "And but for the interference with his arrangement there would be no cause for such marriages. The fact that he separated the races shows that he did not intend for the races to mix."

Bazile's decision was both appealable and, from the perspective of the Lovings' lawyers, helpfully inflammatory. By clarifying the judge's motivations and introducing religious and moral elements to the case, the ruling may have helped win attention to the case. Many years later, Hirschkop told an interviewer, "When Judge Bazile rendered his opinion, he couldn't have done us a bigger favor than that horrible language about the races on a separate continent."

The Loving case wended its way through the state and federal appeals process until, on March 7, 1966, the Virginia Supreme Court of Appeals again upheld Virginia's antimiscegenation laws. At the same time, the court set aside the original conviction, finding a sentence that required the defendants to leave the state "unreasonable." The court also chided the trial judge for sentencing the Lovings to one year in jail, suspended, when the Code of Virginia required that they be sentenced to the penitentiary. The case was returned to the circuit court of Caroline County. The Lovings, however, appealed to the U.S. Supreme Court, and this time the court agreed to hear the case.

Supreme Court



Mildred Loving Holding a Photo of Her Husband, Richard Loving

In this final appeal, attorneys Philip Hirschkop and Bernard Cohen were assisted by numerous legal scholars, the national office of the ACLU, and other organizations and law firms. Amicus briefs—statements and information presented on behalf of organizations not directly involved with the case—were filed by the National Association for the Advancement of Colored People (NAACP), the NAACP Legal Defense Fund, the Japanese-American Citizen's League, and a consortium of Catholic bishops and other sympathetic organizations. Although sixteen states still had laws banning interracial marriage (Maryland repealed its law in response to the Lovings' Supreme Court case), only North Carolina offered a brief on behalf of Virginia. The Lovings' brief, meanwhile, included legal arguments interspersed with references to sociology and anthropology.

The Supreme Court heard oral arguments in the case of *Loving v. Virginia* on April 10, 1967. The Lovings declined their attorneys' invitation to attend the hearing. On behalf of the commonwealth, Assistant Attorney General R. D. McIlwaine III argued that Virginia law did not violate the Fourteenth Amendment, and that even if it did it would be legitimate on the grounds that it protected the state from the "sociological [and] psychological evils which attend interracial marriages." In particular, McIlwaine cited academic research that suggested "that intermarried families are subjected to much greater pressures and problems than those of the intramarried and that the state's prohibition of interracial marriage for this reason stands on the same footing as the prohibition of polygamous marriage, or incestuous marriage or the prescription of minimum ages at which people may marry and the prevention of the marriage of people who are mentally incompetent."

For the Lovings, Hirschkop argued that Virginia law violated the Fourteenth Amendment's promise of equal protection under the law by denying potential spouses and their children their civil rights simply because of race. "These are slavery laws, pure and simple," he said. In reference to the Act to Preserve Racial Integrity, Hirschkop noted that Virginia was "not concerned with racial integrity of the Negro race, only the white race." In fact, he noted, nonwhite non-African Americans could marry African Americans without penalty.

Perhaps the most dramatic moment in the courtroom came when Cohen, arguing that the law violated the Lovings' rights to due process, told the justices, "No matter how we articulate this, no matter which theory of the due process clause or which emphasis we attach to, no one can articulate it better than Richard Loving when he said to me, 'Mr. Cohen, tell the Court I love my wife and it is just unfair that I can't live with her in Virginia.'"

On June 12, 1967, the Supreme Court ruled unanimously in favor of Richard and Mildred Loving, striking down Virginia's law as a violation of the Fourteenth Amendment. In his opinion, Chief Justice Earl Warren described marriage as "one of the 'basic civil rights of man,' fundamental to our very existence and survival ... To deny this fundamental freedom on so unsupportable a basis as the racial classifications embodied in these statutes, classifications so directly subversive of the principle of equality at the heart of the Fourteenth Amendment, is surely to deprive all the State's citizens of liberty without due process of law."



Robert D. McIlwaine III



Philip Hirschkop



Telegram Announcing the Decision in *Loving v. Virginia*

Legacy

Loving v. Virginia established the legal basis for a cultural redefinition of marriage. On August 13, 1967, the Associated Press reported on the marriage of Leona Eve Boyd, a white woman, and Romans Howard Johnson, a black man, in Kingdom Hall Church in Norfolk, "the first known interracial marriage in Virginia since the U.S. Supreme Court struck down the state miscegenation law in June." Over time, marriages between whites and African Americans became both more numerous and more accepted. Same-sex marriages, meanwhile, became more disputed, with gay rights activists attempting to use *Loving v. Virginia* as a precedent in their favor. The courts have preferred reading the case strictly in terms of race, although in 2007 the group Gay and Lesbian Advocates and Defenders, or GLAD, released a statement that attributed to Mildred Loving support for same-sex marriage. After her death, the Loving family denied that she held these views.

Richard and Mildred Loving had been publicity-averse through the entire appeals process, living secretly on a farm in King and Queen County. At a news conference held in the Alexandria office of Cohen & Cohen on the day of the Supreme Court's ruling, Mildred Loving said, "I feel free now." Around the same time, she told an interviewer that someone had burned a cross in her mother's front yard in Central Point. Richard Loving built himself and his wife a house in Central Point and lived there until his death on June 29, 1975, when a drunk driver struck the car he was driving in Caroline County. Mildred Loving survived the crash and died of pneumonia at her home on May 2, 2008.

Time Line

April 3, 1691 - The General Assembly passes "An act for suppressing outlying slaves," which grants county sheriffs, their deputies, and any other "lawfull authority" the ability to kill any slaves resisting, running away, or refusing to surrender when so ordered. The act seeks to prevent "abominable mixture and spurious issue" by prohibiting mixed-race marriages.

October 1705 - The General Assembly passes "An Act Concerning Servants and Slaves," which summarizes previous laws defining bound labor in Virginia. It makes distinctions between the treatment of white "christian" indentured servants and nonwhite, non-Christians, allowing for the killing of slaves in various situations without penalty.

1848 - The General Assembly increases the penalty for the white partner in an interracial marriage from six months to a maximum of twelve months in prison.

1849 - The General Assembly declares that all marriages between whites and African Americans are "absolutely void."

1860 - The General Assembly defines a "mulatto" or a "negro" as any man or woman with one-fourth part or more African American ancestry.

1865-1870 - More than twenty-four interracial marriages are reported in the Richmond *Enquirer* alone.

1866 - The General Assembly defines a "colored" person as any man or woman with one-fourth or more African American ancestry. An Indian is any man or woman with one-fourth or more Indian ancestry.

June 14, 1871 - An article in the Richmond *Daily Dispatch* tells of a white woman in Wythe County who, after she is discovered to have been living with a black man, is tarred and feathered and exiled from the county.

1873 - The General Assembly establishes the punishment for an interracial marriage as a year in jail and a \$100 fine for the white partner and a \$200 fine for the person who officiates such a wedding.

1874 - Andrew Kinney, a black man, and Mahala Miller, a white woman, marry in Washington, D.C., and return to Augusta County, where they are arrested and charged with "lewdly associating and

cohabitating."

1878 - The General Assembly makes both partners in an interracial marriage liable to serve between two and five years in the state penitentiary.

October 3, 1878 - In *Kinney v. Virginia*, the Virginia Supreme Court of Appeals upholds Virginia's laws prohibiting interracial marriage and affirms the priority of Virginia law over that of other jurisdictions.

January 29, 1883 - In *Pace v. Alabama*, the U.S. Supreme Court upholds Alabama's antimiscegenation laws, ruling that because they punish black and white partners equally, they do not violate the Fourteenth Amendment.

March 19, 1888 - In *Maynard v. Hill*, the U.S. Supreme Court establishes that the jurisdiction of marriage belongs to the states, meaning that no state is required to accept a marriage affirmed in another state.

1910 - The General Assembly defines a "colored" person as having just one-sixteenth African American ancestry, while an Indian is anyone with one-fourth or more Indian ancestry.

March 20, 1924 - Governor E. Lee Trinkle signs "An act to Preserve Racial Integrity," a law aimed at protecting whiteness on the state level. It prohibits interracial marriage, defines a white person as someone who has no discernible non-white ancestry, and requires that birth and marriage certificates indicate people's races.

October 29, 1933 - Richard Perry Loving is born in Central Point, Caroline County.

July 22, 1939 - Mildred Delores Jeter is born in Central Point, Caroline County.

June 26, 1952 - A Chinese-born man, Han Say Naim, marries Ruby Elaine Lamberth, a white woman from Virginia, in North Carolina with the purpose of evading Virginia's antimiscegenation laws.

June 13, 1955 - In *Naim v. Naim*, the Virginia Supreme Court of Appeals grants Ruby Naim, a white woman, an annulment for her marriage to the Chinese-born Han Say Naim on the grounds that the interracial marriage had never been legal in Virginia.

June 2, 1958 - Mildred Jeter and Richard Loving, both of Central Point, Caroline County, are married in Washington, D.C.

July 11, 1958 - Caroline County commonwealth's attorney Bernard Mahon obtains warrants for the arrest of Richard and Mildred Loving. They are suspected of violating the state law that forbids interracial marriage.

ca. July 13, 1958 - Central Point sheriff Garnett Brooks arrests Richard and Mildred Loving at the home of Mildred Loving's parents. They are charged with violating the state law that forbids interracial marriage.

October 1958 - The circuit court of Caroline County issues an indictment against Mildred and Richard Loving stating that they are in violation of the state law that forbids interracial marriage.

January 6, 1959 - Judge Leon Bazile accepts Mildred and Richard Loving's guilty pleas and agrees to suspend their one-year jail sentences on the condition that they leave the state of Virginia and promise not to return as a couple for twenty-five years.

June 1963 - Richard and Mildred Loving engage Bernard S. Cohen, an affiliated attorney with the American Civil Liberties Union, to appeal their conviction for violating the state law that forbids interracial marriage. Philip J. Hirschkop joins the case a few months later.

June 20, 1963 - Richard and Mildred Loving write to the National Capitol Area branch of the American Civil Liberties Union seeking legal help. In 1959 they were expelled from the state of Virginia for violating the state law that forbids interracial marriage.

November 6, 1963 - Bernard S. Cohen, representing Richard and Mildred Loving, files a motion in the Caroline County Circuit Court to vacate their 1959 conviction for violating the state law that forbids interracial marriage. He also asks that the two one-year suspended sentences be set aside.

January 22, 1965 - Leon M. Bazile, a judge for the circuit court of Caroline County, refuses a motion on behalf of Richard and Mildred Loving to vacate their 1959 conviction for violating the state law that forbids interracial marriage.

March 7, 1966 - In *Loving v. Virginia*, the Virginia Supreme Court of Appeals upholds the state's antimiscegenation laws. The Court also sets aside the original conviction of Richard and Mildred Loving, finding that a sentence requiring the defendants to leave the state is "unreasonable."

April 10, 1967 - The U.S. Supreme Court hears oral arguments in the case of *Loving v. Virginia*. Richard and Mildred Loving, of Caroline County, are appealing their 1959 conviction for violating Virginia's laws prohibiting interracial marriage.

June 12, 1967 - In *Loving v. Virginia*, the U.S. Supreme Court unanimously rules that Virginia's antiscegenation statutes violate the Constitution's Fourteenth Amendment. The decision effectively overturns the bans on interracial marriage in sixteen states.

August 13, 1967 - The Associated Press reports on the marriage of Leona Eve Boyd, a white woman, and Roman Howard Johnston, a black man, in King Hall Church in Norfolk, "the first known interracial marriage in Virginia since the U.S. Supreme Court struck down the state miscegenation law in June."

June 29, 1975 - Richard Loving dies after the car he is driving is struck by a drunk driver in Caroline County. His wife, Mildred Loving, survives the crash. Richard Loving is buried in Saint Stephen's Baptist Church Cemetery in Central Point.

June 12, 2007 - On the fortieth anniversary of the U.S. Supreme Court's decision in *Loving v. Virginia*, the group Gay and Lesbian Advocates and Defenders, or GLAD, releases a statement that attributes to Mildred Loving support for same-sex marriage. After her death, the Loving family denies that she held these views.

May 2, 2008 - Mildred Loving dies of pneumonia at her home in Central Point. She is buried with her husband at Saint Stephen's Baptist Church Cemetery in Central Point.

Categories [Twentieth Century History \(1901-2000\)](#), [Law and Court Cases](#), [Civil Rights Movement](#), [African American History](#), [Jim Crow Era](#)

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