

CLOSED

**U.S. District Court
Northern District of Alabama (Southern)
CIVIL DOCKET FOR CASE #: 2:14-cv-01091-RDP**

Aaron-Brush et al v. Bentley et al
Assigned to: Judge R David Proctor
Case in other court: USCA, 16-10028-FF
Cause: 42:1983 Civil Rights Act

Date Filed: 06/10/2014
Date Terminated: 10/13/2015
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

April Aaron-Brush

represented by **Avery Corinne Livingston**
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Plaintiff

Ginger Aaron-Brush

represented by **Avery Corinne Livingston**
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V.

Defendant

Robert Bentley
*in his official capacity as Governor of
Alabama*
TERMINATED: 09/22/2014

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Defendant

Luther Strange
*in his official capacity as Attorney
General of Alabama*

represented by **James W Davis**
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Defendant

Julie Magee
*in her official capacity as Commissioner
of Revenue of the State of Alabama*

represented by **James W Davis**
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Defendant

Hugh B McCall
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Date Filed	#	Docket Text
06/10/2014	<u>1</u>	COMPLAINT against Robert Bentley, Julie Magee, Hugh B McCall, Luther Strange, filed by April Aaron Brush, Ginger Aaron Brush. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(AVC) (Entered: 06/10/2014)
06/10/2014	<u>2</u>	NOTICE REGARDING CONSENT. (AVC) (Entered: 06/10/2014)
06/10/2014		Filing Fee: Filing fee \$400.00 receipt_number 1126-2186381--ALND receipt number B4601053753. related document <u>1</u> COMPLAINT against Robert Bentley, Julie Magee, Hugh B McCall, Luther Strange, filed by April Aaron Brush, Ginger Aaron Brush. (Attachments: # 1 Exhibit A, # 2 Exhibit B)(AVC). (Marshall, Randall) Modified on 6/10/2014 (MSN) (Entered: 06/10/2014)
06/17/2014	<u>3</u>	Summons Issued as to Robert Bentley, Julie Magee, Hugh B McCall, Luther Strange; returned to plaintiff for service.(AVC) (Entered: 06/17/2014)
06/18/2014		PHV Fee paid for James Esseks: \$50, Receipt# 1126-2191389 (ALND# B4601053912). (Marshall, Randall) (Entered: 06/18/2014)
06/18/2014	<u>4</u>	MOTION for Leave to Appear <i>Pro Hac Vice</i> -- James Esseks by April Aaron-Brush, Ginger Aaron-Brush. (Attachments: # <u>1</u> Text of Proposed Order)(Marshall, Randall) (Entered: 06/18/2014)
06/18/2014		PHV Fee paid for Chase Strangio: \$50, Receipt# 1126-2191428 (ALND# B4601053913). (Marshall, Randall) (Entered: 06/18/2014)
06/18/2014	<u>5</u>	MOTION for Leave to Appear <i>Pro Hac Vice</i> -- Chase Strangio by April Aaron-Brush, Ginger Aaron-Brush. (Attachments: # <u>1</u> Text of Proposed Order)(Marshall, Randall) (Entered: 06/18/2014)
06/18/2014	<u>6</u>	ORDER-re: Motions to Appear Pro Hac Vice <u>4</u> & <u>5</u> . The motions are CONDITIONALLY GRANTED. By 6/25/2014, Attorneys Esseks and Strangio SHALL Certify to the Court that they have read and understand: any local rules applicable in this District; the Alabama State Bar Pledge of Professionalism; and this Court's CM/ECF requirements. Signed by Judge R David Proctor on 6/18/2014. (AVC) (Entered: 06/18/2014)
06/23/2014	<u>7</u>	CERTIFICATE of Counsel- re <u>6</u> Order (Attachments: # <u>1</u> Affidavit Declaration of James Esseks, # <u>2</u> Affidavit Declaration of Chase Strangio)(Marshall, Randall)

		(Entered: 06/23/2014)
06/24/2014	<u>8</u>	AFFIDAVIT of Service for Process (Summonses and Complaint) served on Office of the Attorney General, State of Alabama (by agreement) on June 19, 2014, filed by April Aaron-Brush, Ginger Aaron-Brush. (Marshall, Randall) (Entered: 06/24/2014)
07/14/2014	<u>9</u>	MOTION to Dismiss by Robert Bentley, Julie Magee, Hugh B McCall, Luther Strange. (Davis, James) (Entered: 07/14/2014)
07/14/2014	<u>10</u>	ORDER- re: <u>9</u> MOTION to Dismiss. The parties SHALL brief the issues raised by the Motion in accordance with "Exhibit B". Pltf's responsive submission shall be filed no later than fourteen (14) calendar days after the entry date of this order. Dfts' reply submissions shall be filed no later than seven (7) calendar days after the responsive submission is filed. Signed by Judge R David Proctor on 7/14/2014. (AVC) (Entered: 07/14/2014)
07/15/2014	<u>11</u>	NOTICE of Appearance by Joshua Steven Segall on behalf of All Plaintiffs (Segall, Joshua) (Entered: 07/15/2014)
07/15/2014	<u>12</u>	INITIAL ORDER GOVERNING ALL FURTHER PROCEEDINGS-reminding parties of their obligations under FRCP 26(f) and LR26.1(d)- with appendices attached. Signed by Judge R David Proctor on 7/15/2014. (AVC) (Entered: 07/15/2014)
07/15/2014	<u>13</u>	ANSWER to <u>1</u> Complaint by Julie Magee, Hugh B McCall, Luther Strange.(Davis, James) (Entered: 07/15/2014)
07/23/2014	<u>14</u>	RESPONSE in Opposition re <u>9</u> MOTION to Dismiss filed by April Aaron-Brush, Ginger Aaron-Brush. (Attachments: # <u>1</u> Exhibit 1: September 12, 2013, The News Courier, # <u>2</u> Exhibit 2: September 11, 2013 (updated December 4, 2013), WSFA 12 News, # <u>3</u> Exhibit 3: Hard v. Bentley Complaint, # <u>4</u> Exhibit 4: Hard v. Bentley Answer, # <u>5</u> Exhibit 5: Executive Order 1996-24)(Marshall, Randall) (Entered: 07/23/2014)
07/28/2014	<u>15</u>	RESPONSE in Support re <u>9</u> MOTION to Dismiss filed by Robert Bentley, Julie Magee, Hugh B McCall, Luther Strange. (Attachments: # <u>1</u> Exhibit A - Hard - Doc. 48 - Motion to Dismiss Bentley)(Davis, James) (Entered: 07/28/2014)
07/31/2014	<u>16</u>	MOTION for Leave to Submit Additional Material in Support of Their Motion to Dismiss <u>9</u> by Robert Bentley, Julie Magee, Hugh B McCall, Luther Strange. (Attachments: # <u>1</u> Exhibit A)(Davis, James) (Entered: 07/31/2014)
08/04/2014	<u>17</u>	RESPONSE to Motion re <u>16</u> MOTION for Leave to Submit Additional Material in Support of Their Motion to Dismiss <u>9</u> filed by April Aaron-Brush, Ginger Aaron-Brush. (Attachments: # <u>1</u> Exhibit 6: WSFA 12 News, # <u>2</u> Exhibit 7: WAFF.com, # <u>3</u> Exhibit 8: ABC 33)(Marshall, Randall) (Entered: 08/04/2014)
08/04/2014	<u>18</u>	TEXT ORDER - This matter is before the court on Defendants' Motion for Leave to Submit Additional Material In Support of their Motion to Dismiss <u>16</u> . The Motion seeks to submit a Report and Recommendation from Magistrate Judge Katherine Nelson of the Southern District of Alabama [16-1]. Plaintiffs do not opposed the proposed submission, but have filed a response addressing the proposed submission <u>17</u> . Therefore, the Motion <u>16</u> is GRANTED . The court will consider the additional authority submitted with Defendants' Motion. Signed by Judge R David Proctor on 8/4/2014. (AVC) (Entered: 08/04/2014)
08/07/2014	<u>19</u>	REPORT of Rule 26(f) Planning Meeting. (Marshall, Randall) (Entered: 08/07/2014)
09/03/2014	<u>20</u>	ORDER SETTING RULE 16(b) SCHEDULING CONFERENCE for 9/15/2014 at 10:00a.m., in chambers of the undersigned located at the Hugo L Black US Courthouse. Out of town counsel for Pltfs and Dfts may participate in the conference via telephone. The court will initiate the call. Signed by Judge R David Proctor on 9/3/2014. (AVC) (Entered: 09/03/2014)
09/15/2014		Minute Entry for proceedings held before Judge R David Proctor: Scheduling Conference held on 9/15/2014. A separate Scheduling Order will be entered by the court. (KLL) (Entered: 09/15/2014)

09/15/2014	<u>21</u>	SCHEDULING ORDER that all deadlines apply as further set out: Mediation in 2/2015; Discovery due by 2/4/2015; Dispositive Motions due by 4/6/2015; Pretrial conference ready in 8/2015; This case will be trial ready in 9/2015. Signed by Judge R David Proctor on 9/15/2014. (AVC) (Entered: 09/15/2014)
09/19/2014	<u>22</u>	Joint MOTION to Dismiss <i>Defendant Bentley</i> by Robert Bentley, Julie Magee, Hugh B McCall, Luther Strange. (Davis, James) (Entered: 09/19/2014)
09/22/2014	<u>23</u>	ORDER –re: Joint Motion to Dismiss Dft Bentley <u>22</u> . The motion is GRANTED. Pltff's claims against Governor Robert Bentley are DISMISSED WITHOUT PREJUDICE. This dismissal shall not affect any other right, claim or cause of action which Pltf has, or may have, against any remaining Dft. Signed by Judge R David Proctor on 9/22/2014. (AVC) (Entered: 09/22/2014)
02/04/2015	<u>24</u>	Joint MOTION for Extension of Time (<i>Amend Scheduling Order</i>) by April Aaron–Brush, Ginger Aaron–Brush. (Marshall, Randall) (Entered: 02/04/2015)
02/05/2015	<u>25</u>	AMENDED SCHEDULING ORDER granting <u>24</u> Joint MOTION to Amend Scheduling Order. The court's 9/15/2014 Scheduling Order <u>21</u> is AMENDED to all potentially dispositive motions should be filed by 7/31/2015. Signed by Judge R David Proctor on 2/5/2015. (AVC) (Entered: 02/05/2015)
07/08/2015	<u>26</u>	Joint MOTION to Set Briefing Schedule by April Aaron–Brush, Ginger Aaron–Brush. (Marshall, Randall) (Entered: 07/08/2015)
07/09/2015	<u>27</u>	TEXT ORDER – This matter is before the court on the parties' Joint Motion to Set Briefing Schedule. <u>26</u> This matter is SET for a status conference, in chambers, at 10:00 a.m. on Monday, July 13, 2015 . The parties should be prepared to discuss how this case should proceed. The Clerk of the Court is directed to terminate the Joint Motion. <u>26</u> . Signed by Judge R David Proctor on 7/9/2015. (AVC) (Entered: 07/09/2015)
07/13/2015		Minute Entry for proceedings held before Judge R David Proctor: Status Conference held on 7/13/2015. By agreement, the parties will file responsive pleadings as directed. (Court Reporter Chanetta Sinkfield.) (KLL) (Entered: 07/13/2015)
07/16/2015	<u>28</u>	NOTICE by Julie Magee, Hugh B McCall, Luther Strange (Attachments: # <u>1</u> Exhibit A – Department of Revenue letter dated July 15, 2015, # <u>2</u> Exhibit B – Hard v. Strange – Order granting motion to dismiss)(Davis, James) (Entered: 07/16/2015)
07/19/2015	<u>29</u>	RESPONSE to <u>28</u> Notice filed by April Aaron–Brush, Ginger Aaron–Brush. (Still, W) (Entered: 07/19/2015)
07/21/2015	<u>30</u>	MOTION to Dismiss for Lack of Jurisdiction by Julie Magee, Hugh B McCall, Luther Strange. (Davis, James) (Entered: 07/21/2015)
07/21/2015	<u>31</u>	TEXT ORDER – This matter is before the court on Defendants' Motion to Dismiss. <u>30</u> . Plaintiff SHALL respond to Defendants' Motion on or before July 31, 2015 . Defendants may reply on or before August 10, 2015 . Signed by Judge R David Proctor on 7/21/2015. (AVC) (Entered: 07/21/2015)
07/31/2015	<u>32</u>	RESPONSE to <u>30</u> Motion to Dismiss and Notice of Proceedings in Eleventh Circuit filed by April Aaron–Brush, Ginger Aaron–Brush. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(Still, W) (Entered: 07/31/2015)
08/07/2015	<u>33</u>	REPLY in Support of <u>30</u> Motion to Dismiss for Lack of Jurisdiction filed by Julie Magee, Hugh B McCall, Luther Strange. (Attachments: # <u>1</u> Exhibit A – Texas letter brief, # <u>2</u> Exhibit B – Mississippi letter brief to 5th Circuit)(Davis, James) (Entered: 08/07/2015)
08/10/2015	<u>34</u>	CORRECTED Reply in Support of <u>30</u> Motion to Dismiss for Lack of Jurisdiction filed by Julie Magee, Hugh B McCall, Luther Strange. (Attachments: # <u>1</u> Exhibit A – Texas letter brief, # <u>2</u> Exhibit B – Mississippi letter brief to 5th Circuit, # <u>3</u> Exhibit C – Alabama AG brief to 11th Circuit)(Davis, James) (Entered: 08/10/2015)
08/11/2015	<u>35</u>	NOTICE of Supplemental Authority filed by April Aaron–Brush, Ginger Aaron–Brush. (Attachments: # <u>1</u> Exhibit D (Arkansas), # <u>2</u> Exhibit E (Nebraska), # <u>3</u> Exhibit F (South Dakota))(Still, W) (Entered: 08/11/2015)

08/12/2015	<u>36</u>	SECOND Amended Supplemental Authority filed by April Aaron–Brush, Ginger Aaron–Brush. (Attachments: # <u>1</u> Exhibit G (Kansas))(Still, W) (Entered: 08/12/2015)
08/14/2015	<u>37</u>	NOTICE of Additional Evidence by April Aaron–Brush, Ginger Aaron–Brush (Attachments: # <u>1</u> Exhibit Attachment A)(Dillard, Joel) (Entered: 08/14/2015)
08/20/2015	<u>38</u>	THIRD NOTICE of Supplemental Authority by April Aaron–Brush, Ginger Aaron–Brush (Attachments: # <u>1</u> Supplement Eleventh Circuit Orders)(Marshall, Randall) (Entered: 08/20/2015)
08/21/2015	<u>39</u>	NOTICE of Additional Information by April Aaron–Brush, Ginger Aaron–Brush (Marshall, Randall) (Entered: 08/21/2015)
08/21/2015	<u>40</u>	RESPONSE to <u>35</u> , <u>36</u> , <u>37</u> , <u>38</u> , <u>39</u> Supplemental Authority filed by Julie Magee, Hugh B McCall, Luther Strange. (Davis, James) (Entered: 08/21/2015)
08/26/2015	<u>41</u>	Fifth NOTICE of Supplemental Authority filed by April Aaron–Brush, Ginger Aaron–Brush. (Attachments: # <u>1</u> Exhibit Waters v Ricketts en banc petition)(Still, W) (Entered: 08/26/2015)
09/29/2015	<u>42</u>	TEXT ORDER – This matter is before the court on Plaintiff's Notice of Additional Information <u>39</u> regarding the status of a corrected birth certificate. On or before October 13, 2015 , the parties SHALL file a joint status report regarding the status of the corrected birth certificate and any other relief Plaintiffs claim they should be entitled to from Defendants, other than costs and attorneys fees. Signed by Judge R David Proctor on 9/29/2015. (AVC) (Entered: 09/29/2015)
10/08/2015	<u>43</u>	JOINT STATUS REPORT by April Aaron–Brush, Ginger Aaron–Brush. (Attachments: # <u>1</u> Exhibit A: Relators Alabama Policy Institute and Alabama Citizens Action Programs Brief Addressing the Effect of Obergefell on this Courts Existing Orders, Case No. 1140460 (Alabama Supreme Court), # <u>2</u> Exhibit B: Motion to Exclude the Judicial Inquiry Commission Filing & Request that Chief Justice Moore Not Recuse, Case No. 1140460 (Alabama Supreme Court), # <u>3</u> Exhibit C: Respondent Probate Judge Nick Williams Emergency Petition for Declaratory Judgment and/or Protective Order in Light of Jailing of Kentucky Clerk Kim Davis, and Memorandum in Support of Emergency Motion, Case No. 1140460 (Alabama Supreme Court), # <u>4</u> Exhibit D: Petition for Declaratory Judgment, Order, and Decree That Alabama Will Honor Same–Sex Marriage Licenses Only if Issued Under the Exclusive Licensing Authority of the United States Government or Sister States Whose State Laws Recognize Same–Sex Marriages, Case No. 1140460 (Alabama Supreme Court))(Marshall, Randall) (Entered: 10/08/2015)
10/13/2015	<u>44</u>	ORDER GRANTING <u>30</u> MOTION to Dismiss for Lack of Jurisdiction. This case is DISMISSED WITHOUT PREJUDICE. Costs are TAXED against Defendants, Attorney General Luther Strange, Julie Magee, and John Richardson. Signed by Judge R David Proctor on 10/13/2015. (JLC) (Entered: 10/13/2015)
10/26/2015	<u>45</u>	BILL OF COSTS (<i>taxed against Defendants -- Doc. 44</i>) by April Aaron–Brush, Ginger Aaron–Brush. filed by April Aaron–Brush, Ginger Aaron–Brush (Attachments: # <u>1</u> Exhibit 1: fees of the Clerk, # <u>2</u> Exhibit 2: deposition transcripts)(Marshall, Randall) (Entered: 10/26/2015)
10/26/2015	<u>46</u>	MOTION for Attorney Fees by April Aaron–Brush, Ginger Aaron–Brush. (Marshall, Randall) (Entered: 10/26/2015)
10/26/2015	<u>47</u>	MOTION to Extend Time for Appeal by April Aaron–Brush, Ginger Aaron–Brush. (Marshall, Randall) (Entered: 10/26/2015)
10/28/2015	<u>48</u>	ORDER–re: Motion for Attorneys' Fees <u>46</u> , and Motion to Extend Time for Appeal <u>47</u> . Motion <u>47</u> is DENIED. The court DEFERS consideration of Pltfs' Motion for Attorneys' Fees, pending the Eleventh Circuit's disposition of any appeal. Signed by Judge R David Proctor on 10/28/2015. (AVC) (Entered: 10/28/2015)
11/04/2015	<u>49</u>	Renewed MOTION for Attorney Fees by April Aaron–Brush, Ginger Aaron–Brush. (Marshall, Randall) (Entered: 11/04/2015)
11/04/2015	<u>50</u>	Brief in Support of <u>49</u> Entitlement to Attorneys' Fees, Expenses and Non–Taxable Costs. (Attachments: # <u>1</u> Transcript)(Marshall, Randall) (Entered: 11/04/2015)

11/06/2015	51	TEXT ORDER – This matter is before the court on Plaintiffs' Renewed Motion for Attorneys' Fees. <u>49</u> . Defendants SHALL respond to Plaintiffs' Motion <u>49</u> on or before November 16, 2015 . Plaintiffs may reply on or before November 23, 2015 . Consideration of the appropriate amount of any fee award will be taken up following the court's decision on Plaintiff's current Motion, if necessary. Signed by Judge R David Proctor on 11/6/2015. (AVC) (Entered: 11/06/2015)
11/16/2015	<u>52</u>	RESPONSE in Opposition to <u>49</u> Renewed Motion for Attorneys' Fees filed by Julie Magee, Hugh B McCall, Luther Strange. (Howell, Laura) (Entered: 11/16/2015)
11/20/2015	<u>53</u>	REPLY Brief in Support of <u>49</u> Renewed Motion for Attorney Fees, Expenses and Non-Taxable Costs filed by April Aaron-Brush, Ginger Aaron-Brush. (Marshall, Randall) (Entered: 11/20/2015)
12/08/2015	<u>54</u>	ORDER denying <u>49</u> Renewed Motion for Attorneys' Fees. Signed by Judge R David Proctor on 12/8/2015. (AVC) (Entered: 12/08/2015)
01/05/2016	<u>55</u>	NOTICE OF APPEAL as to <u>54</u> Order on Motion for Attorney Fees by April Aaron-Brush, Ginger Aaron-Brush. Filing fee \$505, Receipt# 1126-2541464 (ALND# B4601067946). (Marshall, Randall) (Entered: 01/05/2016)
01/05/2016	<u>56</u>	Transmittal to USCA re: <u>55</u> Notice of Appeal. (AVC) (Entered: 01/05/2016)
01/05/2016	<u>57</u>	Transmission of Notice of Appeal and Docket Sheet to US Court of Appeals re <u>55</u> Notice of Appeal. (AVC) (Entered: 01/05/2016)
01/19/2016	<u>58</u>	USCA Case Number 16-10028-FF for <u>55</u> Notice of Appeal. (AVC) (Entered: 01/19/2016)
01/25/2016	<u>59</u>	TRANSCRIPT REQUEST by April Aaron-Brush, Ginger Aaron-Brush (Marshall, Randall) (Entered: 01/25/2016)
03/16/2016		Pursuant to F.R.A.P. 11(c), the Clerk of the District Court for the Northern District of Alabama certifies that the record is complete for purposes of this appeal re: <u>55</u> Notice of Appeal, Appeal No. 16-10028-FF. The entire record on appeal is available electronically.(AVC) (Entered: 03/16/2016)
02/28/2017	<u>60</u>	USCA JUDGMENT as to <u>55</u> Notice of Appeal; Before Wilson, and Jill Pryor, Circuit Judges, and Bartle, District Judge affirming the decision of the District Court. Issued as mandate on February 28, 2017 with per curiam opinion attached. (Attachments: # <u>1</u> usca opinion)(AVC) (Entered: 02/28/2017)
05/26/2017	61	TEXT ORDER This matter is before the court on the parties' informal notice that counsel no longer seek to pursue costs in this action. Accordingly, the Bill of Costs <u>45</u> is deemed MOOT. Signed by Judge R David Proctor on 5/26/2017. (KAM,) (Entered: 05/26/2017)