

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

JAMES N. STRAWSER, <i>et al.</i> ,	)	
Plaintiffs,	)	
v.	)	
LUTHER STRANGE, in his official	)	
capacity as Attorney General for the	)	Civil Action No. 14-0424-CG-C
State of Alabama, <i>et al.</i> ,	)	
Defendants.	)	
	)	
	)	

MOTION TO ALTER OR AMEND JUDGMENT

Pursuant to Fed.R.Civ.P. 59(e), plaintiffs move this Court to alter or amend the Final Judgment entered on June 7, 2016 (Doc. 180) to include a permanent injunction against the Attorney General that would be enforceable by plaintiffs or any member of the plaintiff class. In support of this Motion, plaintiffs state the following:

1. In seeking final relief in this matter, plaintiffs couched their request (Doc. 142) as making the preliminary injunction (Doc. 123) permanent. The Motion for Permanent Injunction and Final Judgment (Doc. 142) inadvertently failed to request that the preliminary injunction against the Attorney General (Doc. 29) be made permanent.

2. The Court made clear in its omnibus Order, which denied the Attorney General’s motion to dismiss the claims against him as moot (Doc. 166), that relief against the Attorney General was warranted:

Attorney General Strange moves to dismiss this case as moot because a permanent injunction barring the enforcement of Alabama's marriage laws have already issued and the Attorney General continues to remain in full compliance with it. The Attorney General acknowledges that the Supreme Court's decision in *Obergefell v. Hodges* 135 S.Ct. 2584(2015) is the law of the land. He contends that nothing more remains to be done in this case and that there is no longer a live case or controversy between the Attorney General and the Plaintiffs.

\* \* \*

Plaintiffs conversely argue that none of the Defendants' assurances provide Plaintiffs or the members of the Plaintiff Class with a formal, enforceable order should the Attorney General (or a future Attorney General) or other Defendants violate this Court's injunction or fail to fully recognize marriages validly entered into in Alabama or elsewhere. Current or future state and county officials may disagree about *Obergefell's* applicability to the challenged Alabama laws or otherwise resist the decision. This Court agrees that the need for a permanent injunction is clear.

Doc. 179 at 2-3.

3. In rejecting the Attorney General's voluntary-cessation argument, the Court recognized that "[t]he formidable, heavy burden of persuading the court that the challenged conduct cannot reasonably be expected to start up again lies with the party asserting mootness." *Id.* at 4 (citations omitted). And the Court specifically found that "the Attorney General and other Defendants have not satisfied this burden." *Id.* Rather, the Court observed that "[a]lthough the Attorney General professes that he will continue to abide by the decision in *Obergefell*, ... there has been nothing voluntary about the defendants' change of tack. The Defendants defended this case with vigor from the outset and the challenged statutes remain on the books." Doc. 179 at 5 (citation and internal quotation marks omitted).

4. The Court further rejected the Attorney General's argument that because he was "already subject to a permanent injunction from another case in this

Court, *Searcy v. Strange*, No. 14-cv-208-CG-N,” no further injunctive relief against him was warranted because “the Plaintiffs in this case lack standing to enforce the *Searcy* injunction.” Doc. 179 at 5.

5. Finally, the Court found “that as long as the Sanctity of Marriage Amendment and the Alabama Marriage Protection Act remain on the books, there continues to be a live controversy with respect to which the Court can give meaningful relief.” *Id.* at 7. Consequently, in order for plaintiffs and the plaintiff class to receive complete and final relief, the Final Judgment should be altered or amended to make the preliminary injunction previously entered against the Attorney General (Doc. 29) permanent and enforceable by plaintiffs and the plaintiff class.

WHEREFORE, plaintiffs move the court to alter or amend the Final Judgment, Doc. 180, to include a permanent injunction against the Attorney General.

Respectfully Submitted,

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\* Appearing *pro hac vice*

\*\* Motion for admission *pro hac vice* forthcoming

## CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system on June 15, 2016. I certify that service will be accomplished by the CM/ECF system to the following parties:

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