

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

BRITTANI HENRY, <i>et al.</i>	:	Case No. 1:13-cv-129
Plaintiffs,	:	
	:	Judge Timothy S. Black
vs.	:	
	:	
LANCE HIMES, <i>et al.</i>	:	
Defendants.	:	

**DECLARATORY JUDGMENT
AND PERMANENT INJUNCTION**

Upon consideration of Plaintiffs’ Motion for Declaratory Judgment and Permanent Injunction (Doc. 18), the parties’ responsive memoranda (Docs. 20 and 25), and the record evidence, the Court has found and concluded that Plaintiffs’ motion is appropriately granted. (Doc. 28). Consequently, the Court now enters final judgment of declaratory judgment and permanent injunction.

Specifically, the Court finds that Plaintiffs have established that Ohio Const. Art. XV, §11 and Ohio Rev. Code. § 3101.01(C) (Ohio’s “marriage recognition bans”) violate rights secured by the Fourteenth Amendment to the United States Constitution in that same-sex couples legally married in other jurisdictions who seek to have their out-of-state marriages recognized and accepted as legal in and by Ohio are denied due process of law when the attendant protections and benefits of their existing marriages are denied by the state and are denied the equal protection of the laws when Ohio does recognize heterosexual marriages from other jurisdictions, even where the heterosexual marriage is of a kind not authorized by Ohio. The record evidence demonstrates that there is no state interest sufficient to justify denying same-sex married couples the same recognition of their existing marriages.

Therefore, this Court hereby **DECLARES** that those portions of Ohio Const. Art. XV, § 11, Ohio Rev. Code § 3101.01(C), and any other provisions of the Ohio Revised Code that may be relied on to deny legal recognition to the marriages of same-sex couples validly entered in other jurisdictions, violate rights secured by the Fourteenth Amendment to the United States Constitution in that same-sex couples married in jurisdictions where same-sex marriage is lawful, who seek to have their out-of-state marriages recognized and accepted as legal in Ohio, and to enjoy the rights, protections, and benefits of marriage provided to heterosexual married couples under Ohio law, are denied significant liberty interests and fundamental rights without due process of law and in violation of their right to equal protection.

Defendants Lance Himes and Camille Jones, and their officers, agents, and employees, are also **PERMANENTLY ENJOINED** from: (a) enforcing those portions of Ohio Const. Art. XV, § 11 and Ohio Rev. Code § 3101.01(C), and any other provisions of the Ohio Revised Code, to deny recognition to valid out-of-state same-sex marriages; (b) denying same-sex couples validly married in other jurisdictions all the rights, protections, and benefits of marriage provided under Ohio law; and/or (c) denying full faith and credit to decrees of adoption duly obtained by same-sex couples in other jurisdictions.

Finally, Defendants are further **ORDERED** to issue birth certificates to the Plaintiffs for their children listing both same-sex parents.

IT IS SO ORDERED.¹

Date: 4/14/15

s/ Timothy S. Black
Timothy S. Black
United States District Judge

¹ The Court STAYS enforcement of its Order of today (Doc. 28) and this Declaratory Judgment and Permanent Injunction until the parties have briefed whether or not this Court should fully stay its Orders until completion of appeal to the United States Court of Appeals for the Sixth Circuit and the United States Supreme Court. The Court is inclined to stay its finding of facial unconstitutionality but not to stay the Orders as to the as-applied claims of the four couples who are Plaintiffs because they have demonstrated that a stay will harm them individually due to the imminent births of their children and other time-sensitive concerns. The Court inclines toward a finding that the issuance of correct birth certificates for Plaintiffs' children, due in June or earlier, should not be stayed. The Court is further inclined to conclude that the Defendants will not be harmed by compliance with the requirements of the United States Constitution. Nevertheless, Plaintiffs shall file today their memorandum *contra* Defendants' oral motion to stay, and Defendants shall file a reply memorandum before 3:00 p.m. tomorrow. The Court shall then rule expeditiously.