

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

BRITTANI HENRY, et al.,	:	Case No. 1:14-cv-129
	:	
Plaintiffs,	:	
vs.	:	Judge Timothy S. Black
	:	
RICHARD HODGES, et al.,	:	
	:	
Defendants.	:	

**FINAL JUDGMENT AND DECLARATORY JUDGMENT
AND PERMANENT INJUNCTION**

On February 10, 2014, Plaintiffs filed a Complaint for Declaratory and Injunctive relief challenging the constitutionality of the Ohio statute and constitutional provision that denied legal recognition in Ohio to same-sex couples married outside Ohio who sought to have their child’s birth certificate accurately identify both spouses as their child’s legally recognized parents. On April 14, 2014, this Court entered a declaratory judgment and permanent injunction. (Doc. 29). In a consolidated appeal, that decision was reversed by the United States Court of Appeals for the Sixth Circuit. *DeBoer v. Synder*, 772 F.3d 388 (6th Cir. 2014). On Writs of Certiorari, however, the United States Supreme Court reversed the Court of Appeals for the Sixth Circuit. *Obergefell v. Hodges*, 135 S.Ct. 2584 (2015). Consistent with the Supreme Court’s judgment and mandate in *Obergefell v. Hodges*, 135 S.Ct. 2584 (2015), this Court now enters a final judgment and declaratory judgment and permanent injunction in this case.

In accordance with the Supreme Court’s decision in *Obergefell*, this Court finds that Plaintiffs have established 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 and equal protection of law when the State denies recognition to, and the attendant protections and benefits for, their existing marriages. 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 opposite- sex 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.

Defendant Richard Hodges, who is sued in his official capacity as the Director of the Ohio Department of Health, and Defendant Camille Jones, who is sued in her official capacity as Registrar for the City of Cincinnati Health Department, 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.

Defendants are further **ORDERED**, upon request of both parents, to issue birth certificates to the children of Plaintiffs, and all same-sex couples married in a state where same-sex marriage was legal before their child was born in Ohio or legally adopted in Ohio, listing both same-sex parents on their child's birth certificate.

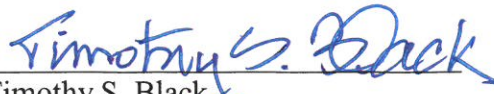
Defendants are further **ORDERED** to issue forms with instructions on how to complete the forms for requesting birth certificates for children born or adopted in Ohio. The forms and instructions should allow both parents to choose their title (mother, father, parent) and their gender (male, female).

Defendant Hodges has made a good faith effort to reach out to same-sex couples married out of state who, before the *Obergefell* decision, requested that both parents be listed on the birth certificate of a child adopted or born in Ohio and whose request was denied. Defendant Hodges has notified such parents that, upon their request, an amended birth certificate listing the names of both parents will be issued. Defendant Hodges agrees to make a good faith effort to continue such notifications to any such parents upon becoming aware that notification was not accomplished.

Defendant Hodges is further **ORDERED** in his official capacity to make a good faith effort to communicate Notice of this Final Order (Doc. 42) to all persons within Ohio who assist with completing Ohio birth certificates, and he shall evidence such compliance by filing with this Court a Notice of Compliance by December 1, 2015. The posting of this Final Order on the Ohio Department of Health's official website shall satisfy this Notice requirement.

IT IS SO ORDERED.

Date: 11/2/15


Timothy S. Black
United States District Judge