

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Michelle Gibson, et al. : Case No. 1:14-cv-347
:
Plaintiffs, : Judge Michael R. Barrett
v. :
Lance Himes, et al., :
:
Defendants. :

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

Plaintiffs filed a motion for temporary restraining order and preliminary injunction seeking a declaratory judgment declaring Ohio Rev. Code §3101.01(C) and Ohio Constitution Art. XV, §11, on their face, violate rights secured by the Fourteenth Amendment to the United States Constitution in that same-sex couples are denied their fundamental right to marry without due process of law and are treated differently than opposite-sex couples. (Doc.5). The parties agreed to stay the proceedings until after the Supreme Court ruled in *Obergefell v. Hodges*, 135 S.Ct. 2584 (2015), (Doc. 22, 24). The Supreme Court held in *Obergefell* that the right to marry is a fundamental right inherent in the liberty of the person, and under the Due Process and Equal Protection Clauses of the Fourteenth Amendment couples of the same-sex may not be deprived of that right and that liberty. *Id.* at 2598, 2602-04. The Court held same-sex couples may exercise the fundamental right to marry in all States. *Id.* at 2607.

Consistent with the Supreme Court’s judgment and mandate in *Obergefell*, this court now enters a final judgment and declaratory judgment in this case. Based on the pleadings and the decision in *Obergefell*, the Court declares that Ohio Rev. Code §3101.01(C) and Art. XV, §11, Ohio Constitution, on their face, violate rights secured by the Fourteenth Amendment to the

United States Constitution in that same-sex couples are denied their fundamental right to marry inherent in the liberty of a person and under the Due Process and Equal Protection Clauses of the Fourteenth Amendments.

THEREFORE, it is hereby ORDERED that Defendant, Richard Hodges, who is sued in his official capacity as Director of the Ohio Department of Health, and the Hamilton County Probate Judge, who is sued in his official capacity, and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with defendants who receive actual notice of this Order, are PERMANENTLY ENJOINED from enforcing Ohio Rev. Code § 3101.01(C) and Ohio Constitution Art. XV, §11. Defendant Hamilton County Probate Court is further Ordered to continue its practice of issuing marriage licenses to same-sex couples, as it has been doing since June 26, 2015, including Plaintiffs Michelle Gibson, Deborah Meem, Ronald Kastner Beck, David Beck, Andrew Hickam, Ethan Fletcher, Rhonda Craig, and Kendra Dukes, if he has not done so already, if they are otherwise qualified to obtain an Ohio marriage license, and upon their application, duly record their marriages once properly solemnized.

Plaintiff's attorney fees were agreed to in a stipulated judgment entry in *Obergefell v Hodges*, SDOH Case No. 1:13-cv-501 (Doc. 89 and 90), which Defendant Hodges satisfied in full. Plaintiffs will not seek any additional fees related to this case against any Defendant.

IT IS SO ORDERED.

Date: May 27, 2016

/s/ Michael R. Barrett
Michael R. Barrett
United States District Judge