



PHIL BRYANT  
GOVERNOR

July 1, 2015

United States Court of Appeals for the Fifth Circuit  
Office of the Clerk  
F. Edward Hebert Building  
600 S. Maestri Place  
New Orleans, LA 70130

Re: Campaign for Southern Equality, et al. v. Bryant, et al., No. 14-60837

Dear Mr. Cayce:

Defendant-Appellant Governor Phil Bryant submits this letter advisory in response to the Court's letter of June 29, 2015 regarding the effect of *Obergefell v. Hodges*, 576 U.S. \_\_\_ (U.S. June 26, 2015) (slip op.). Governor Bryant and four justices of the U.S. Supreme Court agree that *Obergefell* was improperly decided. *See, e.g.*, slip op., at 1 (Thomas, J., dissenting) (noting "[t]he Court's decision ... is at odds not only with the Constitution, but with the principles upon which our Nation was built.") While Governor Bryant believes a state's definition of marriage should rest with the people acting through their elected state legislature, he recognizes that *Obergefell* is now controlling.

1. The Court should affirm the district court's preliminary injunction to the extent it is consistent with the Supreme Court's decision in *Obergefell* and remand the case with instructions to enter a final decree consistent with *Obergefell* and this Court's order.
2. When the appeal is no longer pending, the Court should vacate the stay.

In Mississippi, Plaintiff couples are not being prevented from exercising the rights the Supreme Court recognized in *Obergefell*. Plaintiffs' representation that immediate issuance of a mandate is needed because "each day that the mandate is delayed is one more day that Appellees are deprived of their constitutional right to marriage" is inaccurate. The Mississippi Attorney General has issued guidance to circuit clerks stating that "regardless of the status of the case before the Fifth Circuit, *Obergefell* is the law of the land."<sup>1</sup> General Hood further noted that "[i]f a clerk has issued or decides to issue a marriage license to a same sex couple, there will be no adverse action taken by the Attorney General against that circuit clerk on behalf of the State." *Id.* Defendant Hinds County Circuit Clerk Barbara Dunn – the only Mississippi circuit clerk named

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<sup>1</sup> Letter from Attorney General Jim Hood to circuit clerks, June 29, 2015, available at <http://www.scribd.com/doc/269984811/Letter-from-Attorney-General-to-circuit-clerks#scribd> (Retrieved July 1, 2015)

in this case – is issuing marriage licenses to same-sex couples.<sup>2</sup> And the enforcement of the state marriage laws that Plaintiffs are challenging are not within the authority of the Mississippi Governor.

Despite these issues, Governor Bryant agrees that this appeal – and this case – should be resolved expeditiously. Rather than ruling on a stay motion that contains contested facts and is not central to the resolution of this case, the Court can vacate the stay when it resolves the appeal.

3. The only motion that remains pending in this court is the Motion for Immediate Lifting of Stay and Issuance of Mandate, dated June 26, 2015.

4. The Court may resolve the merits of this case and instruct the district court to enter a final decree.

Sincerely,



Drew Snyder  
Counsel for Governor Bryant

cc: Counsel of record (via CM/ECF notice)

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<sup>2</sup> *Hinds Co. Circuit Clerk's Office Issuing Same-Sex Marriage Licenses*, Mississippi News Now, June 29, 2015, available at [http://www.myarklamiss.com/story/d/story/hinds-co-circuit-clerks-office-issuing-same-sex-ma/25714/2aOBV8U37kGDLvm9\\_7jQTg](http://www.myarklamiss.com/story/d/story/hinds-co-circuit-clerks-office-issuing-same-sex-ma/25714/2aOBV8U37kGDLvm9_7jQTg) (Retrieved July 1, 2015)