

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

Deborah S. Hunt
Clerk

100 EAST FIFTH STREET, ROOM 540
POTTER STEWART U.S. COURTHOUSE
CINCINNATI, OHIO 45202-3988

Tel. (513) 564-7000
www.ca6.uscourts.gov

Filed: June 16, 2014

Mr. Byron Jeffords Babione
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, AZ 85260

Mr. Carmine D. Boccuzzi Jr.
Cleary, Gottlieb, Steen & Hamilton
One Liberty Plaza
New York, NY 10006

Ms. Jennifer L. Branch
Gerhardstein & Branch
432 Walnut Street
Suite 400
Cincinnati, OH 45202

Ms. Bridget Carty Coontz
Ohio Attorney General's Office
30 E. Broad Street
16th Floor
Columbus, OH 43215

Mr. Drew Sebastian Dennis
ACLU of Ohio
4506 Chester Avenue
Cleveland, OH 44103

Ms. Felicia H. Ellsworth
Wilmer Hale
60 State Street
Boston, MA 02109

Mr. James D. Esseks

ACLU
125 Broad Street
New York, NY 10004

Mr. Mark Christopher Fleming
Wilmer Hale
60 State Street
Boston, MA 02109

Mr. Alphonse A. Gerhardstein
Gerhardstein & Branch
432 Walnut Street
Suite 400
Cincinnati, OH 45202

Ms. Marcia D. Greenberger
National Women's Law Center
11 Dupont Circle, N.W.
Suite 800
Washington, DC 20036

Mr. Jacob Harris Hupart
Paul, Weiss, Rifkind, Wharton & Garrison
1285 Avenue of the Americas
New York, NY 10019

Ms. Jaren Janghorbani
Paul, Weiss, Rifkind, Wharton & Garrison
1285 Avenue of the Americas
New York, NY 10019

Mr. Lawrence J. Joseph
Law Office
1250 Connecticut Avenue
Suite 200
Washington, DC 20036

Ms. Roberta A. Kaplan
Paul, Weiss, Rifkind, Wharton & Garrison
1285 Avenue of the Americas
New York, NY 10019

Mr. Joshua David Kaye
Paul, Weiss, Rifkind, Wharton & Garrison
1285 Avenue of the Americas
New York, NY 10019

Mr. Zachery P. Keller
Ohio Attorney General
Constitutional Offices Section
30 E. Broad Street
16th Floor
Columbus, OH 43215

Ms. Emily J. Martin
National Women's Law Center
11 Dupont Circle, N.W.
Suite 800
Washington, DC 20036

Ms. Jacklyn Gonzales Martin
Gerhardstein & Branch
432 Walnut Street
Suite 400
Cincinnati, OH 45202

Ms. Lisa Talmadge Meeks
Newman & Meeks
215 E. Ninth Street
Suite 650
Cincinnati, OH 45202

Mr. Shannon Price Minter
National Center for Lesbian Rights
870 Market Street
Suite 370
San Francisco, CA 94102

Ms. Dina Bernick Mishra
Wilmer Hale
1875 Pennsylvania Avenue, N.W.
Washington, DC 20006

Mr. Alan B. Morrison
George Washington University Law School
2000 H Street, N.W.
Washington, DC 20052

Mr. Michael Edward Mumford
Baker & Hostetler
1900 E. Ninth Street
Suite 3200

Cleveland, OH 44114

Mr. Eric E. Murphy
Office of the Ohio Attorney General
30 E. Broad Street
17th Floor
Columbus, OH 43215

Mr. Gregory R. Nevins
Lambda Legal Defense and Education Fund
Southern Regional Office
730 Peachtree Street, N.E.
Suite 1070
Atlanta, GA 30308-1210

Ms. Ryan Lynn Richardson
Office of the Ohio Attorney General
30 E. Broad Street
16th Floor
Columbus, OH 43215

Mr. Alan Evan Schoenfeld
Wilmer Hale
250 Greenwich Street
7 World Trade Center
New York, NY 10007

Mr. Benjamin G. Shatz
Manatt, Phelps & Phillips
11355 W. Olympic Boulevard
Los Angeles, CA 90064

Mr. Paul March Smith
Jenner & Block
1099 New York Avenue, N.W.
Suite 900
Washington, DC 20001

Ms. Susan L. Sommer
Lambda Legal
120 Wall Street
19th Floor
New York, NY 10005

Mr. Christopher F. Stoll
National Center for Lesbian Rights

870 Market Street
Suite 370
San Francisco, CA 94102

Mr. Chase Strangio
ACLU
125 Broad Street
New York, NY 10004

Ms. Camilla B. Taylor
Lambda Legal Defense and Education Fund
11 E. Adams Street
Suite 1008
Chicago, IL 60603

Mr. Jeffrey S. Trachtman
Kramer, Levin, Naftalis & Frankel
1177 Avenue of the Americas
New York, NY 10036

Mr. Thomas D. Warren
Baker & Hostetler
1900 E. Ninth Street
Suite 3200
Cleveland, OH 44114

Mr. Paul R.Q. Wolfson
Wilmer Hale
1875 Pennsylvania Avenue, N.W.
Washington, DC 20006

Re: Case No. 14-3057, *James Obergefell, et al v. Lance D. Himes, et al*
Originating Case No. : 1:13-cv-00501

Dear Sir or Madam,

The Court issued the enclosed Order today in this case.

Sincerely yours,

s/Cheryl Borkowski
Case Manager
Direct Dial No. 513-564-7035

Enclosure

FILED
Jun 16, 2014
DEBORAH S. HUNT, Clerk

No. 14-3057

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

JAMES OBERGEFELL, et al.,)
)
Plaintiffs-Appellees,)
)
v.)
)
LANCE D. HIMES, In his official capacity as the)
Interim Director of the Ohio Department of Health,)
)
Defendant-Appellant,)
)
CAMILLE JONES,)
)
Defendant.)

ORDER

Lance D. Himes, in his official capacity as the Interim Director of the Ohio Department of Health, appeals the district court’s judgment declaring that the State of Ohio must recognize valid out-of-state marriages between same-sex couples on Ohio death certificates and permanently enjoining the enforcement of the Ohio constitutional and statutory provisions barring such recognition against the plaintiffs. Equality Ohio, the Equality Ohio Education Fund, and four unmarried same-sex couples (collectively, “the Intervenors”) move to intervene on appeal and to participate in oral argument either as a matter of right or a matter of discretion. Himes and the plaintiffs oppose intervention, and the Intervenors reply.

We may grant a motion to intervene as a matter of right, Fed. R. Civ. P. 24(a), or as a matter of discretion, Fed. R. Civ. P. 24(b). Under either subsection, the motion for intervention

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must be timely. *Blount-Hill v. Zelman*, 636 F.3d 278, 283 & 287 (6th Cir. 2011). In evaluating timeliness, we consider: (1) the point to which the suit has progressed; (2) for what purpose intervention is sought; (3) the length of time preceding the motion during which the Intervenors knew or reasonably should have known of their interest in the case; (4) the prejudice to the original parties due to the Intervenors' failure to seek intervention sooner after recognizing their interest was implicated; and (5) any unusual circumstances weighing for or against intervention. *See id.* at 284.

Having reviewed these factors, we conclude that the Intervenors' motion is untimely. The Intervenors knew or should reasonably have known of their interest in this case well before this appeal was filed, and whether we review the appeal *en banc* as an initial matter is not a sufficient reason for delaying their intervention. The appeal is now fully briefed, and granting intervention at this stage would necessitate supplemental briefing by the parties.

The motion to intervene is **DENIED**, and the motion to participate in oral argument is **DENIED AS MOOT**.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk