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PENNSYLVANIA

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United States Senate

WASHINGTON, DC 20510

November 2, 2015

The Honorable Loretta Lynch
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Lynch,

It has come to my attention that despite the recent *Obergefell v. Hodges* ruling allowing same-sex marriage throughout the country, some older LGBT couples face challenges in exercising their newly obtained right to marriage equality. Specifically because, as recently as just a few years ago, many LGBT couples did not believe they would receive equal marriage rights in their lifetime, some chose to go through an adoption process where one partner adopted the other in order to establish legal protections such as hospital visiting privileges and inheritance rights. Now that same-sex marriage is legal, some of these couples find themselves in a legal limbo, made more complicated by differing state judicial rulings, unable to dissolve an adoption and thus, unable to enjoy the right to marriage equality.

In at least 25 states (including Pennsylvania), a marriage between a parent and an adopted child is considered incest and punishable by up to 10 years in prison. Therefore, couples must annul their adoption before they can apply for a marriage license. Pennsylvania's first such case was Bill Novak and Norman MacArthur, Bucks County residents whose adoption occurred in 2000. After Pennsylvania ended its gay marriage ban in May 2014, the couple successfully submitted a Petition to Vacate Adoption Decree to their local Bucks County Orphans Court Judge. This decision allowed the couple to apply for (and receive) a marriage license within a week of the vacated adoption.

In Allegheny County, a couple attempting the same legal strategy was denied their adoption annulment request in July 2015. The judge in that case was quoted in a Pittsburgh Post-Gazette article saying "courts have generally reversed adoptions only for fraud (most often a would-be adoptive parent who concealed the adoption from other caregivers)" and that revoking an adoption in any other circumstance "would place in jeopardy and imperil adoption degrees generally."^[1] Bosee and Esposito have appealed to the State Superior Court and hope to have a ruling in early 2016.

While I recognize these differing court opinions are a state issue, which I hope can be resolved within the state appeals system, I ask that the Department of Justice consider issuing guidance for courts across the country so that gay couples who have previously entered into adoptions can

^[1] "Adoption gave gay Fox Chapel couple legal stature; now it disallows them marriage." Pittsburgh Post-Gazette. October 9, 2015.

annul them in order to receive marriage licenses. Prior decisions such as the one made in Bucks County, Pennsylvania may provide the legal foundation for such guidance. LGBT couples should have the right to obtain a marriage license, no matter the state or jurisdiction in which they reside. As you know, Justice Anthony Kennedy described the request of same sex couples in *Obergefell* as “equal dignity in the eyes of the law.” In adoption cases such as these, the law has changed dramatically since the adoptions were first carried out. To ensure the dignity of all LGBT couples is affirmed no matter their current adoption status, we must ensure that all parties know their options under the law. I appreciate your attention in this matter and look forward to your response. If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Bob Casey, Jr." in a cursive, slightly stylized font.

Robert P. Casey Jr.