

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

CATHERINE BURNS,
et al.,

Plaintiffs-Appellees,

v.

JOHN SUTHERS, in his official
capacity as Attorney General of
Colorado;

Defendant-Appellant,

and

JOHN W. HICKENLOOPER, JR., in
his official capacity as Governor of
Colorado; and
PAM ANDERSON, in her official
capacity as Clerk and Recorder for
Jefferson County,

Defendants.

No. 14-1283

**JOINT STATUS REPORT ON *KITCHEN v. HERBERT AND BISHOP*
v. SMITH AND MOTION TO IMMEDIATELY DISSOLVE STAY**

Plaintiffs-Appellees, by and through their counsel, Mari Newman,
David A. Lane, Darren M. Jankord, and Danielle C. Jefferis of KILLMER,
LANE & NEWMAN, LLP, hereby submit the following PLAINTIFF-
APPELLEES STATUS REPORT ON *KITCHEN v. HERBERT AND*

BISHOP v. SMITH AND MOTION TO IMMEDIATELY DISSOLVE

STAY. The grounds for this motion are set forth fully herein:

1. This appeal stems from a ruling in the court below holding that the Colorado State constitutional ban on same sex marriage was unlawful in violation of the United States Constitution.

2. Appellants applied to this Court for a stay of the ruling below pending a determination of then-pending petitions for writs of *certiorari* filed in the United States Supreme Court on two cases from this Court, both of which held that same sex marriage bans in Oklahoma and in Utah were unconstitutional. This Court previously ordered a status report from undersigned counsel for the parties in this case on the status of those cases in the United States Supreme Court.

3. Today, the United States Supreme Court denied both petitions in the cases of *Herbert v. Kitchen*, 14-124 and in *Bishop v. Smith*, 14-136.

4. Because fundamental Constitutional and human rights are involved in the case presently before this Court, and because the pronouncements of this Court in both *Herbert* and *Bishop* resoundingly affirm the basic dignity of all same sex people who wish to marry, any further delay in implementing this Court's decisions in those cases, as well as the ruling of the court below

in this case, is to needlessly continue to deny basic human rights to thousands of people in this Circuit and in the State of Colorado.

5. Further, because the Appellants only sought a stay pending a resolution of the *Herbert* and *Bishop* cases by the Supreme Court, and because the Supreme Court has now resolved those cases, there is no legal impediment left standing in the way of dissolving the stay.

6. Counsel David Lane has personally spoken to Colorado Attorney General John Suthers who informs counsel that he fully joins in this motion and supports the immediate dissolution of the stay. Counsel for Appellant Jefferson County also joins in this motion as does counsel for the Governor of Colorado who opposed a stay at the outset.

WHEREFORE, because this case involves a matter of fundamental Constitutional and human rights, it is respectfully requested that the temporary stay previously implemented by this Court to the ruling of the Court below striking down Colorado's ban on same-sex marriage ban be lifted, and the Order of the Court below be immediately effectuated and same sex couples be allowed to immediately marry in the State of Colorado.

Respectfully submitted on this the 6th day of October, 2014.

s/ Mari Newman

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CERTIFICATE OF SERVICE

I hereby certify that on October 6, 2014, I electronically filed the foregoing PLAINTIFF-APPELLEES STATUS REPORT ON *KITCHEN v. HERBERT AND BISHOP v. SMITH* AND MOTION TO IMMEDIATELY DISSOLVE STAY with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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s/ Jamie Akard

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CERTIFICATE OF DIGITAL SUBMISSION

I hereby certify that with respect to the foregoing:

- (1) all required privacy redactions have been made;
- (2) if required to file additional hard copies, that the ECF submission is an exact copy of those documents;
- (3) The digital submissions have been scanned for viruses with the most recent version of a commercial virus scanning program, Malwarebytes Anti- Malware for Windows, Version 2.0.2.1012, database version v2014.09.16.09 updated September 16, 2014 and according to the program are free of viruses.

KILLMER, LANE & NEWMAN, LLP

s/ Jamie Akard

Jamie Akard