

IN THE UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

No. 14-1283

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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.

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**UNOPPOSED MOTION TO DISMISS APPEAL**

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Defendant–Appellant, John Suthers, in his official capacity as the  
Attorney General of Colorado, hereby move pursuant to F.R.A.P. 42(b) to  
dismiss the appeal in this matter and vacate the Rule 8 order issued  
August 21, 2014.

F.R.A.P. 42(b) permits voluntary dismissal by Appellant on motion upon such terms as may be fixed by the Court. Because of the United States Supreme Court's denial of certiorari in *Herbert v. Kitchen, et al.*, and *Smith v. Bishop*, both issued on October 6, 2014, Appellant John Suthers moves to dismiss this appeal. Without opposition of any other part, the Defendant-Appellant request that this appeal be dismissed. Nothing in this motion is intended to compromise any request for costs and fees under 42 U.S.C. § 1988.

All the parties have previously moved the Court to vacate its August 21, order entered pursuant to F.R.A.P. 8 for a stay pending appeal of the district court's order granting plaintiffs' motion for a preliminary injunction enjoining Colorado's ban on same-sex marriage. To provide clarity, the parties desire for the Rule 8 motion to be vacated and then the appeal dismissed.

Respectfully Submitted, October 6, 2014.

JOHN W. SUTHERS  
Attorney General

*/s Michael Francisco*

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John Suthers, in his official capacity  
as Attorney General of Colorado

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## **CERTIFICATE OF SERVICE**

I hereby certify that on October 6, 2014, I electronically filed the foregoing using the court's CM/ECF system which will send notification of such filing counsel for the Plaintiffs-Appellees, and Defendants

*/s Michael Francisco*

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MICHAEL FRANCISCO

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## **CERTIFICATE OF DIGITAL SUBMISSION AND PRIVACY REDACTIONS**

I hereby certify that a copy of the foregoing, as submitted in Digital Form via the court's ECF system, is an exact copy of any written document filed with the Clerk and has been scanned for viruses with the Symantec Endpoint Protection, Version 11.0.7101.1056, and, according to the program, is free of viruses. In addition, I certify all required privacy redactions have been made.

*/s Michael Francisco*

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MICHAEL FRANCISCO