

FILED: August 13, 2014

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-1167 (L)
(2:13-cv-00395-AWA-LRL)

TIMOTHY B. BOSTIC; TONY C. LONDON; CAROL SCHALL; MARY
TOWNLEY

Plaintiffs - Appellees

JOANNE HARRIS, JESSICA DUFF, CHRISTY BERGHOFF, VICTORIA KIDD,
on behalf of themselves and all others similarly situated

Intervenors

v.

GEORGE E. SCHAEFER, III, in his official capacity as the Clerk of Court for
Norfolk Circuit Court

Defendant - Appellant

and

JANET M. RAINEY, in her official capacity as State Registrar of Vital Records;
ROBERT F. MCDONNELL, in his official capacity as Governor of Virginia;
KENNETH T. CUCCINELLI, II, in his official capacity as Attorney General of
Virginia

Defendants

MICHELE MCQUIGG

Intervenor/Defendant

DAVID A. ROBINSON; ALAN J. HAWKINS; JASON S. CARROLL; NORTH CAROLINA VALUES COALITION; LIBERTY, LIFE, AND LAW FOUNDATION; SOCIAL SCIENCE PROFESSORS; FAMILY RESEARCH COUNCIL; VIRGINIA CATHOLIC CONFERENCE, LLC; CENTER FOR CONSTITUTIONAL JURISPRUDENCE; STATE OF WEST VIRGINIA; INSTITUTE FOR MARRIAGE AND PUBLIC POLICY; HELEN M. ALVARE; STATE OF INDIANA; STATE OF ALABAMA; STATE OF ALASKA; STATE OF ARIZONA; STATE OF COLORADO; STATE OF IDAHO; STATE OF LOUISIANA; STATE OF MONTANA; STATE OF NEBRASKA; STATE OF OKLAHOMA; STATE OF SOUTH CAROLINA; STATE OF SOUTH DAKOTA; STATE OF UTAH; STATE OF WYOMING; WALLBUILDERS, LLC; LIBERTY COUNSEL; AMERICAN COLLEGE OF PEDIATRICIANS; SCHOLARS OF HISTORY AND RELATED DISCIPLINES; AMERICAN LEADERSHIP FUND; ROBERT P. GEORGE; SHERIF GIRGIS; RYAN T. ANDERSON; PAUL MCHUGH; UNITED STATES CONFERENCE OF CATHOLIC BISHOPS; NATIONAL ASSOCIATION OF EVANGELICALS; CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS; THE ETHICS & RELIGIOUS LIBERTY COMMISSION OF THE SOUTHERN BAPTIST CONVENTION; LUTHERAN CHURCH-MISSOURI SYNOD; THE BECKET FUND FOR RELIGIOUS LIBERTY; EAGLE FORUM EDUCATION AND LEGAL DEFENSE FUND; DAVID BOYLE; ROBERT OSCAR LOPEZ; CONCERNED WOMEN FOR AMERICA; THE FAMILY FOUNDATION OF VIRGINIA

Amici Supporting Appellant

CONSTITUTIONAL LAW SCHOLARS; ASHUTOSH BHAGWAT; LEE BOLLINGER; ERWIN CHEMERINSKY; WALTER DELLINGER; MICHAEL C. DORF; LEE EPSTEIN; DANIEL FARBER; BARRY FRIEDMAN; MICHAEL JAY GERHARDT, Professor; DEBORAH HELLMAN; JOHN CALVIN JEFFRIES, JR.; LAWRENCE LESSIG; WILLIAM MARSHALL; FRANK MICHELMAN; JANE S. SCHACTER; CHRISTOPHER H. SCHROEDER; SUZANNA SHERRY; GEOFFREY R. STONE; DAVID STRAUSS; LAURENCE H. TRIBE, Professor; WILLIAM VAN ALSTYNE; OUTSERVE-SLDN; THE AMERICAN MILITARY PARTNER ASSOCIATION; THE AMERICAN SOCIOLOGICAL ASSOCIATION; VIRGINIA CONSTITUTIONAL LAW PROFESSORS; AMERICAN PSYCHOLOGICAL ASSOCIATION; THE

AMERICAN ACADEMY OF PEDIATRICS; AMERICAN PSYCHIATRIC ASSOCIATION; NATIONAL ASSOCIATION OF SOCIAL WORKERS; VIRGINIA PSYCHOLOGICAL ASSOCIATION; EQUALITY NC; SOUTH CAROLINA QUALITY COALITION; CHANTELLE FISHER-BORNE; MARCIE FISHER-BORNE; CRYSTAL HENDRIX; LEIGH SMITH; SHANA CARIGNAN; MEGAN PARKER; TERRI BECK; LESLIE ZANAGLIO; LEE KNIGHT CAFFERY; DANA DRAA; SHAWN LONG; CRAIG JOHNSON; ESMERALDA MEJIA; CHRISTINA GINTER-MEJIA; CATO INSTITUTE; CONSTITUTIONAL ACCOUNTABILITY CENTER; HISTORIANS OF MARRIAGE; PETER W. BARDAGLIO; NORMA BASCH; STEPHANIE COONTZ; NANCY F. COTT; TOBY L. DITZ; ARIELA R. DUBLER; LAURA F. EDWARDS; SARAH BARRINGER GORDON; MICHAEL GROSSBERG; HENDRIK HARTOG; ELLEN HERMAN; MARTHA HODES; LINDA K. KERBER; ALICE KESSLER-HARRIS; ELAINE TYLER MAY; SERENA MAYERI; STEVEN MINTZ; ELIZABETH PLECK; CAROLE SHAMMAS; MARY L. SHANLEY; AMY DRU STANLEY; BARBARA WELKE; PARENTS, FAMILIES AND FRIENDS OF LESBIANS AND GAYS, INC.; KERRY ABRAMS, Albert Clark Tate, Jr. Professor of Law University of Virginia School of Law; VIVIAN HAMILTON, Professor of Law William and Mary; MEREDITH HARBACH, Professor of Law University of Richmond; JOAN HEIFETZ HOLLINGER, John and Elizabeth Boalt Lecturer in Residence University of California, Berkeley School of Law; COURTNEY G. JOSLIN, Professor of Law University of California, Davis School of Law; NAACP LEGAL DEFENSE AND EDUCATION FUND, INC.; NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE; HOWARD UNIVERSITY SCHOOL OF LAW CIVIL RIGHTS CLINIC; FAMILY EQUALITY COUNCIL; COLAGE; GLMA: HEALTH PROFESSIONALS ADVANCING LGBT EQUALITY; WILLIAM N. ESKRIDGE, JR.; REBECCA L. BROWN; DANIEL A. FARBER; MICHAEL GERHARDT; JACK KNIGHT; ANDREW KOPPELMAN; MELISSA LAMB SAUNDERS; NEIL S. SIEGEL; JANA B. SINGER; HISTORIANS OF ANTI-GAY DISCRIMINATION; ANTI-DEFAMATION LEAGUE; AMERICANS UNITED FOR SEPARATION OF CHURCH AND STATE; BEND THE ARC: A JEWISH PARTNERSHIP FOR JUSTICE; HADASSAH, THE WOMEN'S ZIONIST ORGANIZATION OF AMERICA; HINDU AMERICAN FOUNDATION; THE INTERFAITH ALLIANCE FOUNDATION; JAPANESE AMERICAN CITIZENS LEAGUE; JEWISH SOCIAL POLICY ACTION NETWORK; KESHET; METROPOLITAN COMMUNITY CHURCHES; MORE LIGHT PRESBYTERIANS; THE NATIONAL COUNCIL OF JEWISH WOMEN; NEHIRIM; PEOPLE FOR THE AMERICAN WAY FOUNDATION; PRESBYTERIAN WELCOME;

RECONCILINGWORKS; LUTHERANS FOR FULL PARTICIPATION; RELIGIOUS INSTITUTE, INC.; SIKH AMERICAN LEGAL DEFENSE AND EDUCATION FUND; SOCIETY FOR HUMANISTIC JUDAISM; T'RUAH: THE RABBINIC CALL FOR HUMAN RIGHTS; WOMEN'S LEAGUE FOR CONSERVATIVE JUDAISM; COLUMBIA LAW SCHOOL SEXUALITY AND GENDER LAW CLINIC; BISHOPS OF THE EPISCOPAL CHURCH IN VIRGINIA; CENTRAL ATLANTIC CONFERENCE OF THE UNITED CHURCH OF CHRIST; CENTRAL CONFERENCE OF AMERICAN RABBIS; MORMONS FOR EQUALITY; RECONSTRUCTIONIST RABBINICAL ASSOCIATION; RECONSTRUCTIONIST RABBINICAL COLLEGE AND JEWISH RECONSTRUCTIONIST COMMUNITIES; UNION FOR REFORM JUDAISM; THE UNITARIAN UNIVERSALIST ASSOCIATION; AFFIRMATION; COVENANT NETWORK OF PRESBYTERIANS; METHODIST FEDERATION FOR SOCIAL ACTION; MORE LIGHT PRESBYTERIANS; PRESBYTERIAN WELCOME; RECONCILING MINISTRIES NETWORK; RECONCILINGWORKS: LUTHERANS FOR FULL PARTICIPATION; RELIGIOUS INSTITUTE, INC.; WOMEN OF REFORM JUDAISM; 28 EMPLOYERS AND ORGANIZATIONS REPRESENTING EMPLOYERS; COMMONWEALTH OF MASSACHUSETTS; STATE OF CALIFORNIA; STATE OF CONNECTICUT; DISTRICT OF COLUMBIA; STATE OF ILLINOIS; STATE OF IOWA; STATE OF MAINE; STATE OF MARYLAND; STATE OF NEW HAMPSHIRE; STATE OF NEW MEXICO; STATE OF NEW YORK; STATE OF OREGON; STATE OF VERMONT; STATE OF WASHINGTON; GARY J. GATES; NATIONAL AND WESTERN STATES WOMEN'S RIGHTS ORGANIZATIONS; VIRGINIA CHAPTER OF THE AMERICAN ACADEMY OF MATRIMONIAL LAWYERS; THE NATIONAL WOMEN'S LAW CENTER; EQUAL RIGHTS ADVOCATES; LEGAL MOMENTUM; NATIONAL ASSOCIATION OF WOMEN LAWYERS; NATIONAL PARTNERSHIP FOR WOMEN & FAMILIES; SOUTHWEST WOMEN'S LAW CENTER; WOMEN'S LAW PROJECT; PROFESSORS OF LAW ASSOCIATED WITH THE WILLIAMS INSTITUTE; BAY AREA LAWYERS FOR INDIVIDUAL FREEDOM; LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS; PUBLIC INTEREST ORGANIZATIONS; BAR ASSOCIATIONS; FAMILY LAW AND CONFLICT OF LAWS PROFESSORS; GAY AND LESBIAN ADVOCATES AND DEFENDERS; PEOPLE OF FAITH FOR EQUALITY IN VIRGINIA; CELEBRATION CENTER FOR SPIRITUAL LIVING; CLARENDON PRESBYTERIAN CHURCH; COMMONWEALTH BAPTIST CHURCH; CONGREGATION OR AMI; HOPE UNITED CHURCH OF CHRIST; LITTLE RIVER UCC; METROPOLITAN COMMUNITY CHURCH OF NORTHERN VIRGINIA; MT. VERNON UNITARIAN CHURCH;

ST. JAMES UCC;; ST. JOHN'S UCC; NEW LIFE METROPOLITAN
COMMUNITY CHURCH; UNITARIAN UNIVERSALIST FELLOWSHIP OF
THE PENINSULA; UNITARIAN UNIVERSALIST CONGREGATION OF
STERLING; UNITED CHURCH OF CHRIST OF FREDERICKSBURG;
UNITARIAN UNIVERSALIST CHURCH OF LOUDOUN; ANDREW MERTZ;
REV. MARIE HULM ADAM; REV. MARTY ANDERSON; REV ROBIN
ANDERSON; REV. VERNE ARENS; RABBI LIA BASS; REV. JOSEPH G.
BEATTIE; REV. SUE BROWNING; REV. JIM BUNDY; REV. MARK BYRD;
REV. STEVEN C. CLUNN; REV. DR. JOHN COPERHAVER; RABBI GARY
CREDITOR; REV. DAVID ENSIGN; REV. HENRY FAIRMAN; RABBI JESSE
GALLOP; REV. TOM GERSTENLAUER; REV. ROBIN H. GORSLINE; REV.
TRISH HALL; REV. WARREN HAMMONDS; REV. JON HEASLET; REV.
DOUGLAS HODGES; REV. PHYLLIS HUBBELL; REV. STEPHEN G. HYDE;
REV. JANET JAMES; REV. JOHN MANWELL; REV. JAMES W. MCNEAL;
REV. MARC BOSWELL; REV. ANDREW CLIVE MILLARD; REV. DR.
MELANIE MILLER; REV. AMBER NEUROTH; REV. JAMES PAPILE; REV.
LINDA OLSON PEEBLES; REV. DON PRANGE; RABBI MICHAEL
RAGOZIN; RABBI BEN ROMER; REV. JENNIFER RYU; REV. ANYA
SAMMLER-MICHAEL; REV. AMY SCHWARTZMAN; REV. DANNY
SPEARS; REV. MARK SURIANO; REV. ROB VAUGHN; REV. DANIEL
VELEZ-RIVERA; REV. KATE R. WALKER; REV. TERRY WILLIAMS; REV.
DR. KAREN-MARIE YUST

Amici Supporting Appellees

O R D E R

Upon consideration of submissions relative to the motion to stay mandate,
the court denies the motion.

Entered at the direction of Judge Floyd with the concurrence of Judge
Gregory. Judge Niemeyer voted to grant the motion.

For the Court

/s/ Patricia S. Connor, Clerk