

No. 10-16696

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

KRISTIN PERRY, et al.,
Plaintiffs-Appellees,

v.

ARNOLD SCHWARZENEGGER, et al.,
Defendants,

and

DENNIS HOLLINGSWORTH, et al.,
Defendant-Intervenors-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA, CASE NO. 3:09-cv-02292
(HONORABLE VAUGHN R. WALKER)

MOTION FOR LEAVE TO FILE OUT OF TIME *AMICUS CURIAE* BRIEF

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In Pro Se as Amicus Curiae

Dated: October 27, 2011

Gage Raley (“Movant”) respectfully requests that this Court grant permission to file the accompanying brief as *amicus curiae* out of time. In support of this Motion, Movant states as follows:

1. Both parties have granted their consent to the filing of this *amicus* brief.

2. Fed. R. App. P. 29(e) provides that an *amicus* brief must be filed “no later than 7 days after the principal brief of the party being supported is filed,” but also provides that “a court may grant leave for later filing.”

3. The principal brief in the above-captioned case was filed on September 17, 2010, and the 7-day deadline for filing an *amicus* brief has passed.

4. Movant recently authored a student note, scheduled to be published in December, titled *The Paternity Establishment Theory of Marriage and Its Ramifications for Same-Sex Marriage Constitutional Cases*.¹ The accompanying brief is largely based upon the contents of that note. The brief supplies important facts and historical sources that are not contained in either the trial record or the party briefs, and will assist this Court in coming to an informed decision in this case.

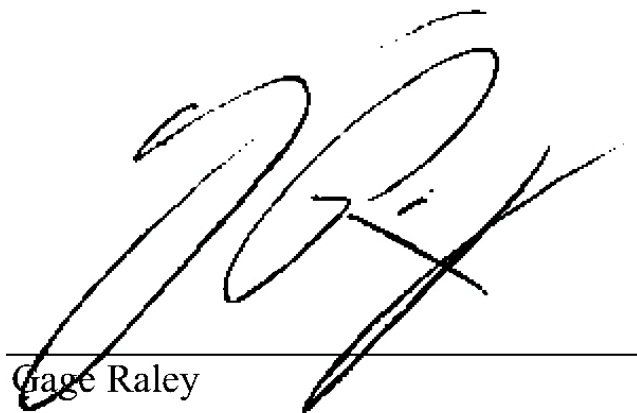
5. Movant respectfully submits that a waiver of the deadline is appropriate in this circumstance because Movant’s research of the issues in the

¹ 19 VA. J. SOC. POL’Y & L. __ (2011) (forthcoming).

case was initially done for the purpose of writing the note, not an *amicus* brief, and the deadline had long passed before Movant discovered that the facts and authorities presented in this brief might be of assistance to this Court. Accordingly, Movant could not file an *amicus* brief within 7 days of the filing of the principal brief.

WHEREFORE, Movant respectfully requests that this Court grant leave to file the accompanying *amicus* brief out of time.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Gage Raley', written over a horizontal line. The signature is stylized and cursive.

Gage Raley

In Pro Se as Amicus Curiae

Dated: October 27, 2011

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on October 27, 2011.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system. I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

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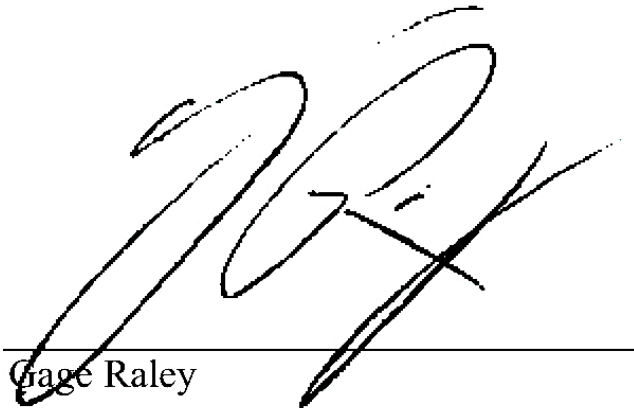
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