

JUL 23 2013

Corrected 7/25/13
FOR PUBLICATION
UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

KAREN GOLINSKI,

Plaintiff - Appellee,

v.

UNITED STATES OFFICE OF
PERSONNEL MANAGEMENT and
JOHN BERRY, Director of the United
States Office of Personnel Management, in
his official capacity,

Defendants,

and

BIPARTISAN LEGAL ADVISORY
GROUP OF THE U.S. HOUSE OF
REPRESENTATIVES,

Intervenor-Defendant -
Appellant.

No. 12-15388

D.C. No. 3:10-cv-00257-JSW
Northern District of California,
San Francisco

ORDER

KAREN GOLINSKI,

Plaintiff - Appellee,

v.

UNITED STATES OFFICE OF

No. 12-15409

D.C. No. 3:10-cv-00257-JSW
Northern District of California,
San Francisco

PERSONNEL MANAGEMENT and
JOHN BERRY, Director of the United
States Office of Personnel Management, in
his official capacity,

Defendants - Appellants,

and

BIPARTISAN LEGAL ADVISORY
GROUP OF THE U.S. HOUSE OF
REPRESENTATIVES,

Intervenor-Defendant.

Before: ALARCÓN, THOMAS, and BERZON, Circuit Judges.

Karen Golinski, a staff attorney of this Court, is married under California state law to Amy Cunninghis. After their 2008 marriage, Golinski sought to enroll Cunninghis in her family health insurance plan under the Federal Employees Health Benefits program. The enrollment request was denied on the basis that their same-sex marriage could not be federally recognized under § 3 of the Defense of Marriage Act (“DOMA”).

Golinski first pursued administrative remedies through the Ninth Circuit’s Employment Dispute Resolution Plan (“EDR Plan”), which prohibits discrimination based on sex or sexual orientation. Chief Judge Kozinski, sitting in his administrative capacity, found that Golinski had suffered discrimination under

the meaning of the EDR Plan and ordered that her spousal health insurance enrollment be processed. However, the Office of Personnel Management directed Golinski's health insurance carrier otherwise, advising that processing the enrollment would violate DOMA.

Golinski filed suit, contending that § 3 of DOMA, as applied to her, violated the equal protection and due process components of the Fifth Amendment to the U.S. Constitution. The district court granted Golinski's motion for summary judgment, holding that § 3 of DOMA "unconstitutionally discriminates against same-sex couples" and therefore "violates [Golinski]'s right to equal protection of the law under the Fifth Amendment." The district court issued a permanent injunction "enjoining defendants . . . from interfering with the enrollment of Ms. Golinski's wife in her family health benefits plan."

These consolidated appeals followed. Pursuant to an order issued December 11, 2012, we held the case in abeyance pending the Supreme Court's resolution of *United States v. Windsor*, No. 12-307. On June 26, 2013, the Supreme Court issued its opinion in *Windsor*, holding that § 3 of DOMA "is unconstitutional as a deprivation of liberty of the person protected by the Fifth Amendment of the Constitution." *United States v. Windsor*, — U.S. —, 133 S. Ct. 2675, 2695 (2013).

In light of the Supreme Court’s decision in *Windsor*, the parties have jointly stipulated that “dismissal is the appropriate disposition of [these] consolidated appeals.”

These consolidated appeals are therefore DISMISSED. The copy of this order shall constitute the mandate of this court.