

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

JAMES OBERGEFELL AND JOHN ARTHUR, et al.	:	Civil Action No. 1:13-cv-501
	:	
Plaintiffs,	:	Judge Timothy S. Black
	:	
v.	:	PROPOSED
	:	DECLARATORY JUDGMENT AND
	:	PERMANENT INJUNCTION ORDER
THEODORE E. WYMYSLO, et. al.,	:	
	:	
Defendants.	:	

This Court earlier entered a Temporary Restraining Order in this case as applied to Plaintiffs Obergefell and Arthur (Doc. 14) and a similar Order as applied to Plaintiff Michener (Doc. 23). The parties extended those Orders by agreement until final disposition of this case. Now, upon consideration of the motion of Plaintiffs for a declaratory judgment and permanent injunctive relief, the responses of the Defendants, and the record evidence submitted by the parties, this Court has found and concluded that Plaintiffs' motion is granted and this Court now enters a permanent injunction as well as final declaratory relief.

Specifically, the Court finds, on the current record, that Plaintiffs have established that Ohio Rev. Code §3101.01(C) and Art. XV, §11, Ohio Constitution, violate rights secured by the Fourteenth Amendments to the United States Constitution in that same-sex couples married in jurisdictions where same-sex marriage is valid who seek to have their out-of-state marriage accepted as legal in Ohio are treated differently than opposite-sex couples who have been married in states where their circumstances allow marriage in that state but not in Ohio (*e.g.*,

consanguinity or age). The evidence shows that there is no state interest that justifies denying same-sex married couples recognition of their marriages.

THEREFORE, it is hereby ORDERED that the motion (Doc. 53) is GRANTED and the Court DECLARES that Ohio Const. Art. XV, §11 and Ohio Rev. Code. § 3101.01(C) are unconstitutional as applied to filing the married Plaintiffs' death certificates that list the decedent as "married" and list the same-sex survivor as the "surviving spouse." The Court further DECLARES that Ohio Const. Art. XV, §11 and Ohio Rev. Code. § 3101.01(C) violate the constitutional rights of those same-sex couples married in jurisdictions that authorize same-sex marriage who become clients of Plaintiff Robert Grunn and about whom he reports information regarding their marital status and status as surviving spouses in support of their requests for death certificates. Specifically, this court DECLARES that Plaintiff Robert Grunn may, consistent with the constitution, report that a decedent married in a state authorizing same-sex marriage is "married" or "widowed" and report the name of the decedent's surviving same-sex spouse on an Ohio death certificate he completes in the course of his work as a funeral director in Ohio.

Defendants Theodore Wymyslo and Camille Jones, and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with Defendants who receive actual notice of this Order, are PERMANENTLY ENJOINED from enforcing Ohio Rev. Code §3101.01(C) and Art. XV, §11, Ohio Constitution, as applied to the Plaintiffs such that Defendants and all those acting in concert are required to permanently issue to each married plaintiff death certificates that record their marital status as "married" or "widowed" and that list the same-sex surviving spouse by name as the "surviving spouse" and prohibited from initiating any criminal prosecution or administrative discipline against Plaintiff Funeral Director Grunn for

actions he takes with respect to death certificates for same-sex married couples wherein he lists the decedent as “married” or “widowed” and lists the surviving same-sex spouse by name as the “surviving spouse.”

Defendants Wymyslo and Jones are further required to issue directives to local registrars, funeral homes, coroners and others who assist with completing of Ohio death certificates explaining their duties under the orders of this Court.

IT IS SO ORDERED.

Dated:

Timothy S. Black
United States District Judge