

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

VIRGINIA WOLF and CAROL
SCHUMACHER, KAMI YOUNG and
KARINA WILLES, ROY BADGER and
GARTH WANGEMANN, CHARVONNE
KEMP and MARIE CARLSON, JUDITH
TRAMPF and KATHARINA HEYNING,
SALUD GARCIA and PAM KLEISS,
WILLIAM HURTUBISE and LESLIE
PALMER, and JOHANNES
WALLMANN and KEITH BORDEN,

Plaintiffs,

v.

Case No. 14-C-00064-BBC

SCOTT WALKER, J.B. VAN HOLLEN,
OSKAR ANDERSON, JOSEPH
CZARNEZKI, WENDY CHRISTENSEN,
and SCOTT MCDONELL,

Defendants.

DOCKETING STATEMENT

Defendants, Scott Walker, J.B. Van Hollen, and Oskar Anderson (collectively, “State Defendants”), by their attorneys, Attorney General J.B. Van Hollen and Assistant Attorneys General Timothy C. Samuelson, Thomas C. Bellavia, and Clayton P. Kawski, concurrent with their Notice of Appeal, submit this Docketing Statement. *See* Seventh Circuit Rule 3(c)(1).

State Defendants Walker, Van Hollen, and Anderson appear in their official capacities, respectively, as Governor of Wisconsin, Attorney General of Wisconsin, and State Registrar of Wisconsin. They are the current occupants of those three offices.

INFORMATION REQUIRED BY SEVENTH CIRCUIT RULE 28(a)(1)

The district court has federal question jurisdiction, pursuant to 42 U.S.C. § 1983 and 28 U.S.C. § 1331, and original jurisdiction related to constitutional and civil rights claims, pursuant to 28 U.S.C. § 1343(a)(3), over this civil case commenced by a complaint filed in the United States District Court for the Western District of Wisconsin on February 3, 2014. (Dkt. 1).

The complaint filed on February 3, 2014, named as plaintiffs Virginia Wolf, Carol Schumacher, Roy Badger, Garth Wangemann, Charvonne Kemp, Marie Carlson, Judith Trampf, and Katharina Heyning (collectively, “the Original Plaintiffs”). (*Id.*). On February 27, 2014, a First Amended Complaint was filed. (Dkt. 26). In addition to the Original Plaintiffs, the First Amended Complaint named as additional plaintiffs, Kami Young, Karina Willes, Salud Garcia, Pam Kleiss, William Hurtubise, Leslie Palmer, Johannes Wallmann and Keith Borden (collectively, with the Original Plaintiffs, “Plaintiffs”). (*Id.*). The First Amended Complaint asserts claims for declaratory and injunctive relief arising under 42 U.S.C. § 1983 alleging a

violation of Plaintiffs' rights under the Fourteenth Amendment to the United States Constitution. (See Dkt. 26:2, 38-42).

INFORMATION REQUIRED BY SEVENTH CIRCUIT RULE 28(a)(2)

The United States Court of Appeals for the Seventh Circuit has jurisdiction pursuant to 28 U.S.C. § 1291 over this appeal by State Defendants from the district court's June 19, 2014, Judgment in a Civil Case ("Judgment") that, among other things, ordered a permanent injunction. (Dkt. 136). The permanent injunction is as follows:

1. Defendants Wendy Christensen, Joseph Czarnezki and Scott McDonell, in their official capacities, and their officers, agents, servants, employees and attorneys, and all those acting in concert with them are permanently enjoined from denying a marriage license to a couple because both applicants for the license are the same sex;
2. Defendant Oskar Anderson, in his official capacity, and his officers, agents, servants, employees and attorneys, and all those acting in concert with them, are permanently enjoined to accept for registration, assign a date of acceptance and index and preserve original marriage documents and original divorce reports for couples of the same sex on the same terms as for couples of different sexes under Wis. Stat. § 69.03(5);
3. Defendant Oskar Anderson, in his official capacity, and his officers, agents, servants, employees and attorneys, and all those acting in concert with them, are permanently enjoined to prescribe, furnish and distribute, under Wis. Stat. § 69.03(8), forms required for marriages under Wis. Stat. ch. 69 and Wis. Stat. § 765.20 that permit couples of the same sex to marry on the same terms as couples of different sexes; and
4. Defendant Scott Walker, in his official capacity, is permanently enjoined to direct all department heads, independent agency heads, or other executive officers appointed by the Governor under Wis.

Stat. ch. 15 and their officers, agents, servants, employees and attorneys, and all those acting in concert with them, to treat same-sex couples the same as different sex couples in the context of processing a marriage license or determining the rights, protections, obligations or benefits of marriage.

(Dkt. 136:2-3, ¶¶ 2-4).

The United States Court of Appeals for the Seventh Circuit also has jurisdiction pursuant to 28 U.S.C. § 1291 over this appeal by State Defendants from the district court's June 6, 2014, Opinion and Order ("Order") that, among other things, denied State Defendants' motion to dismiss (Dkt. 66), granted Plaintiffs' motion for summary judgment (Dkt. 70), and ordered declaratory relief (Dkt. 118, 87). The district court's declaration follows:

It is DECLARED that art. XIII, § 13 of the Wisconsin Constitution violates plaintiffs' fundamental right to marry and their right to equal protection of laws under the Fourteenth Amendment to the United States Constitution. Any Wisconsin statutory provisions, including those in Wisconsin Statutes chapter 765, that limit marriages to a "husband" and a "wife," are unconstitutional as applied to same-sex couples.

(Dkt. 118:87, ¶ 3).

State Defendants filed their Notice of Appeal on July 10, 2014, along with a copy of the district court's June 19, 2014, Judgment (Dkt. 136) and June 6, 2014, Order (Dkt. 118). The Notice of Appeal was timely filed within 30 days after June 19, 2014. Fed. R. App. P. 4(a)(1)(A).

INFORMATION REQUIRED BY SEVENTH CIRCUIT RULE 28(a)(3)

There are no claims that remain for disposition in the district court. *See* 7th Cir. R. 28(a)(3)(i).

The district court's June 19, 2014, Judgment entering a permanent injunction constitutes a final judgment as to the claims that Plaintiffs have asserted under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983. *See* 28 U.S.C. § 1291.

The basis for appellate jurisdiction is not the "collateral order doctrine." *See* 7th Cir. R. 28(a)(3)(ii).

The order and judgment sought to be reviewed does not remand a case to a bankruptcy judge or administrative agency. *See* 7th Cir. R. 28(a)(3)(iii).

No issues remain before the district court. *See* 7th Cir. R. 28(a)(3)(iv).

This case is related to *Wolf, et al. v. Walker, et al.*, Case No. 14-2266 (7th Cir.), that Defendants-Appellants moved to voluntarily dismiss on June 16, 2014. (*See* Case No. 14-2266, 7th Cir. Dkt. 17.) This Court dismissed Case No. 14-2266 on June 16, 2014. (*See* Case No. 14-2266, 7th Cir. Dkt. 18.) No issues remain before this Court in Case No. 14-2266.

Dated this 10th day of July, 2014.

Respectfully submitted,

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