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December 22, 2014

Jeffrey Ashton, Esq.
Orange County State Attorney Office
415 North Orange Avenue
Orlando, Florida 32801

RE: Same-Sex Marriage Decision

Dear State Attorney Ashton:

We write to request that you exercise your prosecutorial discretion, and confirm that absent a change in the law, there will be no prosecution for the issuance of marriage licenses to same-sex couples within your jurisdiction. A Florida court has ruled that refusing to issue such licenses is a denial of equal protection to same-sex couples. That ruling goes into effect at the end of the day on Jan. 5, 2015.

The Osceola County Commission has passed a motion in support of the Osceola County Clerk accepting marriage licenses as of 12:01 am on January 6th, 2015. However, opponents of marriage equality are using the threat of criminal prosecution of court clerks to delay implementation of the judge's ruling. If you confirm that under the present state of the law, you will not indulge such threats of prosecution, then marriage equality can proceed in Orange and Osceola Counties as intended by the court, and pointless and expensive litigation can be avoided.

The ruling in question was issued by Judge Hinkle, in the Northern District of Florida. *Grimsley v. Scott*, No. 4:14-cv-00107, Order Denying Motions to Dismiss, Etc. (N.D. Fla. Aug. 21, 2014). The ruling invalidates Article I, Section 27 of the Florida Constitution, and Sections 741.04(1) and 741.212 of Florida Statutes (the same-sex marriage prohibitions), as violating the Equal Protection Clause of the U.S. Constitution. It ordered the Clerk of Washington County, Florida, to issue same-sex marriage licenses. (Judge Hinkle subsequently specified that the Clerk should do so at the end of the day on Jan. 5, 2015.) Both the U.S. Court of Appeals for the Eleventh Circuit and the U.S. Supreme Court have denied requests for a stay of that ruling.

There are no contrary cases pending in the State of Florida. Obviously, if refusing to issue same-sex marriage licenses is a violation of equal protection in Washington County, it also would be a denial in every other county, including Orange and Osceola Counties. In fact, Nancy Brodzki, a family lawyer in Coral Springs, FL, has announced that she will file lawsuits against

every county clerk of the court who does not honor the court's ruling as soon as it goes into effect. As noted above, the Osceola County Commission voted formally to support the Clerk of the Court's adherence to the ruling.

Stubborn opponents of marriage equality, however, have made a last-ditch effort to thwart Judge Hinkle's ruling by threatening misdemeanor charges against every county clerk other than the Clerk of Washington County who honors Judge Hinkle's ruling. Taxpayer money would have to be used, and wasted, in defeating such efforts.

For the foregoing reasons, we call upon you to confirm that unless Judge Hinkle's ruling is reversed or some contrary legal authority in Florida otherwise arises, you will exercise your prosecutorial discretion to eschew any criminal action of any kind against the Clerks of Orange and Osceola Counties for adhering to the Court's mandate to issue licenses to otherwise-qualifying same-sex couples. Given the fact that the Judge's ruling takes effect shortly, we would appreciate a prompt reply.

Sincerely,



Alan M. Grayson, M.C.



Cheryl Grieb
County Commissioner
Osceola County