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**AG Schmidt Statement on Tenth Circuit’s denial of stay in Marie v. Moser**

by Kansas Attorney General's Office | Nov 07, 2014

TOPEKA – (November 7, 2014) – Kansas Attorney General Derek Schmidt issued the following statement regarding today’s decision by the Tenth U.S. Circuit Court of Appeals to deny the state’s application for a stay in *Marie v. Moser*:

 “Today’s decision by the Tenth Circuit means that the federal District Court’s preliminary injunction remains the controlling authority in this case.  Pursuant to that order, state district court clerks in Douglas and Sedgwick counties will be barred from denying marriage license applications solely because the applicants are of the same gender as of 5 p.m. on Tuesday, November 11, unless the U. S. Supreme Court intervenes.

 “Because the federal District Court’s injunction will effectively disable a provision in the Kansas Constitution, I believe I have a duty to exhaust all of the state’s options for appeal.  Yesterday’s decision by the Sixth U.S. Circuit Court of Appeals in Cincinnati, which held that similar laws in four states do not violate the U. S. Constitution, creates for the first time a split of authority among the federal appeals courts and increases the likelihood that the U. S. Supreme Court will address this important constitutional question.  Therefore, I will take the additional step before Tuesday of asking Justice Sonia Sotomayor, who handles these matters arising within the Tenth Circuit, to stay the District Court’s injunction pending appeal.”