

IN AND FOR THE CIRCUIT COURT OF ORANGE COUNTY, FLORIDA NINTH
JUDICIAL CIRCUIT

HONORABLE TIFFANY MOORE RUSSELL,
ORANGE COUNTY CLERK OF COURTS,
ORANGE COUNTY, FLORIDA,

PETITIONER,

CASE NO.: 2014-CA-13275-0

ORANGE COUNTY
CLERK OF COURTS
ORANGE CO. FL

2014 DEC 31 PM 12:43

FILED IN OFFICE
OFFICE OF CLERK

ORDER GRANTING EMERGENCY PETITION FOR DECLARATORY JUDGMENT

THIS MATTER, having come on to be heard on the Petitioner's Emergency Petition for Declaratory Judgment, and the court having reviewed the pleadings; exhibits attached thereto; applicable case law and argument, it is,

ORDERED AND ADJUDGED as follows:

1. The court finds there is a bona fide, actual, present and practical need for the declaration.
2. There currently exists within Florida a confusing legal landscape regarding what is or is not the applicable law regarding the issuance of same-sex marriage licenses. This confusion currently exists in all counties with the exception of Washington County, Florida. The results of this confusion include, but are not limited to, placing in doubt the authority of the Petitioner to issue a marriage license to applicants for a same-sex marriage.
3. In so doing, it potentially places the Petitioner at legal risk. Further, the county; the clerk of the court; and, ultimately; the taxpayers of Orange County would potentially be at

administrative and financial risk for the burden and cost of litigation, attorney's fees, and costs in fending off challenges to the current state of the law.

4. The court finds the Orange County Clerk of Courts has filed this petition in a manner that exemplifies the best in public leadership; i.e., the bona fide exercise of her responsibility to serve all the people of Orange County in a legal, efficient, economical and prudent manner.

5. The court finds there is no dispute regarding the statement of facts underlying this petition but there does exist continuing legal jousting.

6. The court finds that the right or lack thereof of the Petitioner to legally issue a same-sex marriage license is dependent upon the clarity of applicable law.

7. The court finds that the Petitioner provided advance notice to the Office of the State Attorney for the Ninth Judicial Circuit, Orange County, Florida, of the Clerk's intent to issue the licenses that form the core of this controversy.

8. The court has carefully analyzed the morass of legal opinions regarding the issue of same-sex marriage within the State of Florida.

9. This court has concluded that the ruling of the United State District Court for the Northern District of Florida in Brenner v. Scott, 999 F.Supp. 2d 1278 (N.D. Fla. 2014), is an excellent, well-thought-out, legally sound decision that controls the law in the State of Florida. This Court could not state the issues and the correct legal conclusion better than Judge Hinkle did in the Brenner, supra, case.¹ That is, Florida's same-sex marriage provision violates the due process and equal protection clauses of the Constitution of the United States of America.

¹ "Marriage survived when bans on interracial marriage were struck down, and the institution will survive when bans on same-sex marriage are struck down. Liberty, tolerance, and respect are not zero-sum concepts. Those who enter opposite-sex marriages are harmed not at all when others [] are given the liberty to choose their own life partners and are shown the respect that comes with formal marriage. Tolerating views with which one disagrees is a hallmark of civilized society."

Based upon the aforementioned findings and the emergency need to provide clarification and the declaration for the Orange County clerk of courts and to protect the constitutional rights of the public as set forth in the Constitution of the United States of America, this Court does further issue this Declaratory Statement:

A. The Honorable Tiffany Moore Russell, Orange County Clerk of Courts, Orange County, Florida may rely upon the decision in Brenner v. Scott, 999 F.Supp. 2d 1278 (N.D. Fla. 2014) as the law of Florida and in so doing issue a same-sex marriage license commencing on the expiration of the temporary stay issued by Judge Hinkle in *Brenner* (January 6, 2014).

B. That in issuing a same-sex marriage license the Honorable Tiffany Moore Russell, Orange County Clerk of Court for Orange County, Florida would not be engaging in a violation of either criminal or civil laws of the State of Florida. Specifically, the clerk would not be engaging in any element sufficient to justify a conclusion that there was any intent to engage in any criminal act nor was there any violation of any oath of office.

C. This Order shall remain in effect unless modified by a subsequent ruling from the Federal District Court in the Brenner, supra case or subsequently modified by a court of competent jurisdiction.

DONE and ORDERED this 30 day of December, 2014 in Orlando, Orange County, Florida.



Timothy R. Shea, Circuit Judge