

SEVENTH JUDICIAL DISTRICT
ADMINISTRATIVE ORDER 15-15

FILED
DOUGLAS COUNTY
DISTRICT COURT

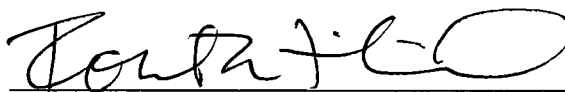
2015 SEP 11 P 3:44

As Chief Judge of this Judicial District, my responsibilities include issuing direction to Clerks regarding their duties in instances where the law is unclear since, by law, clerks cannot issue legal opinions or make legal determinations. ~~Until the U.S. Supreme Court issued its decision in *Obergefell v. Hodges*, No. 14-556 on June 26, 2015, the issue of whether same sex marriage licenses could be issued in Kansas was a legal issue requiring a legal determination. Accordingly, the Clerk referred the matter of the application of Thomas Tuozzo and Rodd Hedlund to me for my review and determination as to whether these same-sex applicants were "legally entitled" to the marriage license under the provisions of K.S.A. 23-2505(a) (2014 Supp.). I issued Administrative Order 14-13 on or about October 8, 2014. This order reflects my determination as a judge concerning whether applicants Tuozzo or Hedlund or any other same-sex applicant, could receive a marriage license in Kansas at that time. I directed the Clerk's Office to act in accordance with Administrative Order 14-3. This decision was made by me as Chief Judge of this District and was not made by Douglas Hamilton or his deputies. I rescinded Administrative Order 14-13 when I issued Administrative Order 14-17, which "instructs the Clerk of the District Court to issue marriage licenses to all qualified applicants without regard to the gender of each applicant."~~

On June 26, 2015, the United States Supreme Court issued its decision in *Obergefell v. Hodges*, No. 14-556, 135 S. Ct. 2584 (2015). My legal opinion is that *Obergefell* requires all states to issue same sex marriage licenses to otherwise qualified applicants. By its terms, the decision in *Obergefell* is not limited to Ohio, Michigan and Kentucky. Given the Court's holding in *Obergefell*, the statutory and constitutional prohibitions in Kansas law governing the issuance of same-sex marriage licenses are unenforceable as of the date of the *Obergefell* opinion. Because this District has been issuing same sex marriage licenses to any otherwise qualified applicant in accordance with my previous Administrative Order 14-17, I believed that the decision in *Obergefell* did not require me to issue another Administrative Order on the subject.

I am issuing this Administrative Order to eliminate any possible confusion about whether the Clerk of the District Court for the Seventh Judicial District is issuing, and will issue in the future, marriage licenses in compliance with *Obergefell* and my Administrative Orders. *Obergefell* controls this district's policy as of June 26, 2015. The Clerk of the District Court and his deputies have been issuing marriage licenses to same-sex couples and are hereby directed to continue to do so in the future on the same terms and conditions as those applicable to opposite sex couples. This Administrative Order shall remain effective without regard to whether a permanent injunction is entered in *Marie v. Mosier*, 14-cv-02518-DDC/TJJ (D. Kan) or whether any preliminary injunction remains in place.

IT IS SO ORDERED. This order is signed and effective this 11th day of September 2015.



Robert W. Fairchild
Chief Judge

