

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

JONATHAN DOE, et al., on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

Case No. 2:11-cv-979-WKW

LEON ARCHER, in his official capacity and
as representative of the class of probate judges
in the State of Alabama similarly situated,

Defendant.

STIPULATION OF DISMISSAL

Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, the parties hereby stipulate to dismissal of this action. As a basis for this stipulation, the parties state as follows:

1. Plaintiffs Jonathon Doe and Julie Doe commenced a suit against Defendant Gloria Sinclair, Probate Judge of Tallapoosa County, on December 7, 2012, suing Judge Sinclair in her official capacity. Plaintiffs challenged the Tallapoosa Probate Office's marriage license policy, which Plaintiffs alleged required affirmative proof of lawful immigration status in order to obtain a marriage license, in violation of the Equal Protection Clause and the Substantive Due Process Clause of the Fourteenth Amendment to the United States Constitution. (First Am. Compl., ECF No. 51.)¹

¹ Former plaintiffs Charelle Loder and Jack Doe also sued former Defendant Reese McKinney, Probate Judge of Montgomery County, based on his office's policy requiring affirmative proof of lawful immigration status in order to obtain a marriage license. (Compl., ECF No. 1; First Am. Compl., ECF No. 51.) These claims were dismissed after the Montgomery County Probate Office changed its policy. (Order, ECF No. 77.)

2. Defendant Judge Leon Archer succeeded Judge Sinclair as the Tallapoosa County Probate Judge after the November 2012 elections, and answered the first amended complaint. (Answer, ECF No. 68.)

3. Defendant Judge Archer subsequently reviewed and amended the Tallapoosa County Probate Office's marriage policy, a copy of which is attached to this stipulation as Exhibit A. The new policy provides, in part, the following:

Under Alabama law, marriage licenses issuance is purely ministerial and probate judges have no discretion when carrying out this duty. Accordingly, it is the policy of the Judge of Probate of Tallapoosa County to issue marriage licenses in strict compliance with and as legally required under Alabama law. The information contained herein is purely informational and should not be considered reflective of any personal opinions or beliefs of the Judge of Probate, Tallapoosa County, or any persons under their employ.

The Tallapoosa County Probate Officer further provides the following regarding identification requirements:

All marriage license applicants must provide their correct and entire legal name. Photographic identification is strongly recommended as it would avoid any unnecessary delays in verifying information required for issuance of the license. Acceptable identification should be official government-issued identification that provides sufficient proof that the applicant is who the applicant represents he or she is. Acceptable forms of identification include, but are not limited to the following: driver's license, passport, military ID, original certified copy of state issued birth certificate, other state issued ID, U.S. Government issued ID (including Permanent Resident Card ("Green Card"), Employment Authorization Card, etc.), or other identification issued by a state of the United States, by a foreign country or state, or by an agency or a subdivision of a state of the United States or of a foreign country or state.

The Tallapoosa County Probate Officer further provides the following in a Frequently Asked Questions section:

Q: Is a social security number required to receive a marriage license?

A: No. Opinion Number 2008-100 of the Office of the Attorney General states that a social security number is not required. The Opinion states that in instances where an applicant does not have a social security number, the applicant can instead submit an affidavit attesting to the fact that he or she was never issued a

social security number. Alternatively, an applicant could also submit a current letter from the Social Security Administration documenting that he or she was never issued a social security number.

Q: Can a marriage license be issued to an applicant who is not a United States citizen?

A: Yes. Opinion Number 2004-176 of the Office of the Attorney General states that citizenship is not a requirement under Alabama law. The Opinion of the Attorney General further concludes that a lack of legal status is not a bar to issuance of a marriage license.

4. Pursuant to this policy and guidance adopted by the Tallapoosa County Probate Office, the parties stipulate to the dismissal of Plaintiff Jonathon Doe's and Julie Doe's claims.

Dated: August 16, 2013

Respectfully Submitted,

s/ Samuel Brooke

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CERTIFICATE OF SERVICE

I hereby certify that on August 16, 2013, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification to the following attorneys for Defendants:

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