



MISSISSIPPI STATE DEPARTMENT OF HEALTH

May 4, 2015

By Email and U.S. Mail

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Re: Public records request and *Campaign for Southern Equality, et al. v. Bryant et al.*, No. 3:14-cv-818 (S.D. Miss)

Dear Ms. Kaplan & Mr. McDuff:

The Mississippi Department of Health Office of Vital Records is in receipt of your letter of April 25, 2016, as well as your follow up letter dated April 28, 2016. Initially, let me respond to your contentions that the Office of Vital Records is subject to the Permanent Injunction attached as Exhibit C to your April 28 letter, and/or required to provide you with discovery under Fed. R. Civ. P. 69. As the case caption of the Permanent Injunction confirms, the Office of Vital Records was not and is not a party to your lawsuit. The Office of Vital Records is not an agent, officer, subsidiary or employee of the only parties to your lawsuit, *i.e.*, Governor Phil Bryant, Attorney General Jim Hood, and the Circuit Clerk of Hinds County.

Furthermore, even assuming your disputed interpretation of the Permanent Injunction was correct; the Office of Vital Records does not bear any responsibility with regard to the issuance of marriage licenses. It is not in a position to enforce any same sex marriage ban, and does not enforce any same sex marriage ban. In accordance with House Bill 1523's terms, the Office of Vital Records is only required to maintain a record of notices of recusal of persons who have the authority to authorize or issue marriage licenses. The Office of Vital Records is not subject to the order you seek to enforce, and has not been served with any validly issued Fed. R. Civ. P. 69 discovery, therefore, your correspondences will be treated as a Public Record Request.

Regarding your specific requests, your letter dated April 25, 2016 seeks the following information:

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(1) notices for any individual who has filed recusal notices pursuant to House Bill 1523; (2) a full and complete explanation of all steps that each individual seeking recusal (or any person acting on behalf of that individual, including in a supervisory capacity) will take to ensure that gay and lesbian couples are not impeded or delayed when seeking to marry in the relevant county; and (3) whether the individual seeking recusal intends to continue issuing marriage licenses to straight couples, while at the same time refusing to participate in issuing licenses to gay and lesbian couples. We further request that you agree to provide us with this same information in connection with any clerks who seek to recuse themselves in the future within one (1) week after such information becomes available.

Response to (1). The Office of Vital Records does not have any notices which have been filed pursuant to House Bill 1523. House Bill 1523 does not take effect until July 1, 2016.

Response to (2). The Office of Vital Records has no information responsive to your request number (2). House Bill 1523 does not require the Office of Vital Records to take any steps to “ensure” that anyone is not “impeded or delayed when seeking to marry in the relevant county.” The Office of Vital Records does not have any responsibility under Mississippi law regarding the manner in which marriage licenses are issued by local county officials to anyone. Mississippi Code Ann. § 41-57-48 requires only that, after a license is issued, copies of the statistical record of marriage are to be filed with the Office of Vital Records, and that the Office of Vital Records maintain copies of the statistical record.

Response to (3). The Office of Vital Records has no information responsive to your request number (3) because it has no control over the issuance of marriage licenses to anyone, and cannot speculate as to what any “individual seeking recusal” under House Bill 1523 may or may not do in the future. See also Response to request number (2) above.

Finally, as to your proposed continuing request for future information, the Office of Vital Records does not provide continuing information to anyone seeking public records. The Office of Vital Records is able to provide only information available at the time that a proper public records request is made, and can provide any information available should a proper request be made at a later date, but is under no obligation under the Public Records Act to update responses to requests on a continuing basis. See Mississippi Model Public Record Rules 4.4(4)(a), as adopted by the Mississippi Ethics Commission.

Sincerely,



Ingrid Dave Williams
Special Assistant Attorney General

cc: Judy Moulder
Liz Sharlot
Drew Snyder, Esq.
Paul Barnes, Esq.
Justin Matheny, Esq.
Teselyn Funches, Esq.