Mississippi Judge Invalidates A Portion Of The "Religious Freedom" Law

BY AIVI NGUYEN • JULY 6, 2016

On July 1, Mississippi's "Religious Freedom" law was supposed to go into effect. Signed by the governor back in April, HB 1523 appears to allow sweeping anti-LGBTQ discrimination under the guise of "religious freedom." The law allows businesses to deny services to gay couples or transition-related care to transgender individuals.

The law also permits clerks to deny marriage licenses to same-sex couples, provided that another clerk in their office can authorize the license.

However, a federal judge in Mississippi has made it clear that HB 1523 interferes with the U.S. Supreme Court's ruling in Obergefell. Judge Carlton Reeves agreed to reopen a case that sought marriage equality in Mississippi as a tool to block the part of the law that allowed clerks to refuse marriage licenses to gay couples.

By reopening the case, Justice Reeves reminded the parties that there was a permanent injunction already in place from June 2015 that required the clerks to comply with Obergefell. The judge said that he was not convinced that all 81 clerks were complying, and so he ordered the parties to propose an amendment to the injunction to ensure obedience by the clerks – i.e. language that would hold clerks in contempt for disobeying.

Specifically, Justice Reeves held that "Mississippi's elected officials may disagree with Obergefell, of course, and may express that disagreement as they see fit – by advocating for a constitutional amendment to overturn the decision, for example. But the marriage license issue will not be adjudicated anew after every legislative session."

It will be interesting to see whether the Mississippi courts will attack the other portions of HB 1523.

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