

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION

CASIE JO MCGEE and SARAH ELIZABETH
ADKINS; JUSTIN MURDOCK and WILLIAM
GLAVARIS; and NANCY ELIZABETH
MICHAEL and JANE LOUISE FENTON,
individually and as next friends of A.S.M., a minor
child;

Plaintiffs,

v.

KAREN S. COLE, in her official capacity as
CABEL COUNTY CLERK; and VERA J.
MCCORMICK, in her official capacity as
KANAWHA COUNTY CLERK;

Defendants,

and

STATE of WEST VIRGINIA, *ex rel.*
PATRICK MORRISSEY, ATTORNEY
GENERAL,

Intervenor.

No. 3:13-cv-24068

DECLARATION OF NANCY ELIZABETH MICHAEL

I, Nancy Elizabeth Michael, hereby declare as follows:

1. The testimony set forth in this Declaration is based on first-hand knowledge, about which I could and would testify competently in open Court if called upon to do so.

2. I am 43 years old and I live in Saint Albans, West Virginia, with Jane Louise Fenton (“Jane”), with whom I have been in a loving and committed relationship for more than 16

years. Jane and I have a son, A.S.M., who is 6 years old. Jane and I wish to marry each other. Jane also has submitted a declaration, and we will try not to repeat each other.

3. Jane and I own an information technology consulting business together.

4. I was raised in St. Albans, graduated from Marshall University, and have lived in this area for most of my life.

5. Jane and I met in an online chat room in 1995 and were instant friends. Jane was living in Oklahoma and I was in Huntington. I thought she was so nice and so funny, I really enjoyed our conversations. We lost touch for a little while, but several months later, we “bumped” into each other again online and picked up right where we had left off.

6. Over the course of a few months, our friendship grew into something more. I realized that I was growing very fond of Jane. In September of 1997, I was out with some friends for my birthday and I should have been having fun and celebrating, but instead I was miserable. All I could think about was Jane and I wanted to go home and talk to her. I wished that I was spending my birthday with her.

7. That night, I called her and told her about my feelings for her. Shortly after, I bought a plane ticket to Oklahoma, and in October of 1997, I got on a plane for the very first time in my life. I spent three days with Jane and by the time I was returning home, we were planning her visit to West Virginia for Christmas. Jane and I both knew at that time that this was something special and that we wanted to be together. It just felt right.

8. I moved to Oklahoma, to be with Jane, in March of 1998. I wanted Jane to move to West Virginia, but she had a steady job at Oklahoma State University and I was only working a temporary job. Moving to Oklahoma was the most practical choice at that time. Jane flew out to West Virginia to help me pack my things into a U-Haul truck that we drove to Oklahoma.

9. I found work, alongside Jane, at Oklahoma State University. However, we were never open about our relationship. We feared discrimination, and therefore did not feel that we could disclose how important we were to one another. Though a few of our co-workers eventually knew, most people just assumed that we were roommates. This was difficult and hurtful. Jane was not my roommate, she was my life partner and I couldn't tell people about that for fear that we would lose our jobs.

10. I was quickly approaching 35 years old and felt that if I was going to ever have a child that I needed to do it soon. Jane and I hadn't seriously discussed starting a family, so I was scared that she wouldn't be on board. I approached her, already in tears, and told her that I wanted to have a child. Jane was quiet for a minute and to my surprise she responded, "Ok!" I encouraged her to take some time to think about it because I was really serious and she said again, "Really... ok!" I was so happy. I really had feared that I was going to miss out on the experience of being a mother.

11. A.S.M. was conceived through assisted reproductive technology with an anonymous donor Jane and I selected together. After several heartbreaking failed attempts, we were overjoyed when we found out I was pregnant.

12. We were really eager to tell everyone that we were expecting. We told our parents as well as our closest friends. However, because we feared losing our jobs, we waited for months to tell our supervisor at work. During this time, no one in our office talked out loud about the fact that I was pregnant, but would quietly congratulate Jane when the supervisor wasn't around.

13. When it was no longer possible to hide my pregnancy, I went to my supervisor and let him know that I was, in fact, pregnant, and that nothing was going to change about my

work in our office. I couldn't tell him anything more than that, and I certainly could not mention that Jane was the baby's other parent, for fear of us both losing our jobs.

14. I gave birth to a beautiful and healthy baby boy on April 24, 2007. Jane and I could not have been more thrilled to welcome A.S.M. into our family. Jane and I decided that we no longer could bear to keep our relationship secret, especially now that we had a child. We didn't want A.S.M. ever to feel shame about his family. We needed to be open about the fact that we were two women raising our son. We decided to move to my hometown of St. Albans, West Virginia. There, we would be near family and would be able to live openly and be accepted.

15. However, because West Virginia law prevents us from marrying, we fear that our son will grow up internalizing the message that there is something wrong with his family. We worry that A.S.M. will feel shame about his family because our government does not believe our family to be worthy of marriage. It pains us to think that our state brands our family as unworthy of the dignity and status of marriage, and that our state tells A.S.M. that he and his parents do not deserve the support for their relationships that other children and their parents receive. We fear that A.S.M. will feel humiliated by our family being labeled by our government as second-class and that those feelings of shame will interfere with his sense of our being a close, integrated family unit just like the other families in our community that he interacts with on a daily basis. We do not want our son or his family to have less dignity or legitimacy, in his own eyes and the eyes of many others and under law.

16. We are just like many other families.. We are raising A.S.M. a mile and a half from the home that I grew up in. He has a two-parent family, he goes to the school that I went to as an elementary school student, and we go to the same pool in the summer. His life is not any

different from my life when I was a kid. We live in a traditional neighborhood with other traditional families. I'm the president of the local school improvement council and a crossing guard, Jane is the homeroom mom for A.S.M.'s 1st grade class, and we're both involved in the parent-teacher organization.

17. Despite how similar we are to the other families in our community, Jane and I are not treated the same way as other couples because we can't marry. I want to marry Jane because I love her and I want our relationship to be respected and protected like everyone else's. Marriage means something to us, to our families, and to our community, and it is the only status that reflects the commitment Jane and I have.

18. Marriage is important to Jane and me as a couple, but it is also really important for A.S.M. The three of us were together when we heard the news about the Supreme Court decision in the Windsor case. A.S.M. asked why we were so happy, and I explained to him, "the law said that maybe one day me and mom could get married," to which he responded, "instead of just partners?"

19. A.S.M. understands that we are different. He understands what "marriage" means and that "partners" is less than "married." Even at his age, he understands that being married means being committed, and being in a permanent family. Jane and I want to marry because we love each other, but we also want to marry because A.S.M. should be able to say that his parents are married. He should be able to feel the pride and security about his family that our state currently denies him.

20. It harms our son that Jane cannot be legally recognized as my family, and that our state denies us all access to laws that establish and protect the parentage of children born to

married couples. Like Jane, I fear that our familial relationship will be disrespected in times of crisis, and want to be able to plan a secure future for the three of us.

21. Recognition of our family in West Virginia is the most significant reason why we want to marry. West Virginia is our home. We love this community. We want to get married by our pastor, surrounded by our friends and family and surrounded by the West Virginia scenery we love. It's a dream that can't be fulfilled anywhere else.

22. That said, if West Virginia were to allow us to marry in another state and return home to register our marriage with the county clerk and have our marriage recognized here in West Virginia, we would gladly do that just so we could be married here in our home state. However, we know that attempting to do that would be futile. Even if we married in another state, our marriage would receive no respect under West Virginia law.

23. On or about September 19, 2013, Jane and I appeared in person at the office of Defendant McCormick in Charleston, Kanawha County, West Virginia, to seek a marriage license because we wish to marry each other. We both presented valid forms of identification, provided the required personal information, and were prepared to pay the required fee and complete a marriage application. When we requested a marriage license, an employee of Defendant McCormick asked, "Where is your groom?" We explained that we wanted to marry each other, to which she responded, "That's not recognized in the State of West Virginia. There's nothing we can do here."

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and ability.