IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
FIFTH DIVISION

ANGELIA FRAZIER HENSON and KATHERINE HENSON
MARKETT HUMPHRIES and DIANNA CHRISTY
ALLAN RAY COX PLAINTIFFS

vs. NO. CV-15-569

FILED 06/09/15 15:55:59
Larry Crane Pulaski Circuit Clerk

LARRY WALTHER, Director of the Arkansas Department
Of Finance and Administration (in his official capacity),
and Successors in Office;
CAROLYN W. COLVIN, Acting Commissioner of the
Social Security Administration (in her official capacity),
and her Successors in Office DEFENDANTS

**MEMORANDUM OPINION AND ORDER**

**Introduction and Statement of the Case**

The Court conducted a hearing on Plaintiffs' prayer for preliminary injunctive relief on June 8, 2015. Cheryl K. Maples appeared for Plaintiffs. Colin R. Jorgensen appeared for Defendant Larry Walther. The Court granted Plaintiffs' oral motion to voluntarily dismiss the complaint of Allan Ray Cox against Separate Defendant Carolyn Colvin because Commissioner Colvin has not been served.

Counsel agreed that no material evidentiary issues exist and that the case was ripe for final adjudication on the merits concerning Plaintiffs' prayer for injunctive and declaratory relief. Mr. Jorgensen, on behalf of Defendant Walther, stipulated that Walther has refused to recognize the validity of all same-sex marriages performed during the period between May 10 and 16, 2014, that Walther has directed that all same-sex married couples file as single individuals on their state income tax returns rather than as married, and that Walther has refused to allow same-sex spouses to enroll in the state employee health insurance plan.

Director Walther contends that Judge Piazza's May 9, 2014 ruling that purported to grant summary judgment in favor of the plaintiffs in *Wright v. State of Arkansas*, (60CV-13-2662) did not declare unconstitutional and enjoin the enforcement of Arkansas Code Ann. § 9-11-208. That statute declares that "[i]t is the public policy of the State of Arkansas to recognize the marital union only of man and woman" and states that "[a] license shall not be issued to a person to marry another person of the same sex, and no same-sex marriage shall be recognized as entitled to the benefits of marriage." Relying on that statute, Director Walther has refused to recognize same-sex marriages performed between May 9, the date of Judge Piazza's order titled "Order Granting Summary Judgment in Favor of the Plaintiffs and Finding Act 144 of 1997 and Amendment 83 Unconstitutional", and May 16, 2014, the date the Arkansas Supreme Court granted a motion to stay enforcement of Judge Piazza's ruling.

It is undisputed that Judge Piazza's May 9, 2014 ruling held that Amendment 83 to the Arkansas Constitution and Act 144 of 1997, codified as Ark. Code Ann. §§ 11-9-107 and 109 violate the Due Process and Equal Protection Clauses in the Fourteenth Amendment to the Constitution of the United States. It is undisputed that Judge Piazza's May 9, 2014 did not enjoin enforcement of Arkansas statutes that ban same-sex marriage. Judge Piazza's May 15, 2014 letter memo to counsel of record in *Wright v. State of Arkansas* states:

> Dear Counsel:
>
> Pursuant to Rule 60 of the Arkansas Rules of Civil Procedure, I am notifying you of a correction of clerical errors in the May 9th, 2014 "Order Granting Summary Judgment in Favor of the Plaintiffs and Finding Act 144 of 1997 and Amendment 83 Unconstitutional," and notifying you that an order will be filed today on May 15, 2014 with the declaration that Act 146 of 1997 (A.C.A. 9-11-208) is

unconstitutional and granting the Plaintiff's request for injunctive relief *nunc pro tunc*.

Judge Piazza, accordingly, entered a "Final Order and Rule 54(b) certification" on May 15, 2014. That order (i) incorporated his May 9, 2014 Order by reference, (ii) stated "that Plaintiffs' Motion for Summary Judgment is GRANTED," (iii) stated that "Defendants' Motion for Summary Judgment is DENIED," and contained the following wording:

> ...that for the reasons stated in this Court's Order entered May 9, 2014 and herein, Amendment 83 of the Arkansas Constitution, Act 146 of 1997, § 1(b)-(c) (codified at Ark. Code Ann. 9-11-208 (a)(1)-(2) and Act 144 of 1997 (Ark. Code Ann. §§ 9-11-107(b) and 109) violate the Equal Protection and Due Process Clauses of the United States and Arkansas Constitutions, and are hereby declared unconstitutional; and
>
> that Plaintiffs' request for a permanent injunction is GRANTED and the Court does hereby permanently enjoin all Defendants, including their officers, employees, agents, representatives, instrumentalities and political subdivisions from enforcing Amendment 83 of the Arkansas Constitution, Act 146 of 1997, § 1(b)-(c) (codified at Ark. Code Ann. 9-11-208 (a)(1)-(2) and Act 144 of 1997 (codified at Ark. Code Ann. §§ 9-11-107(b), -109); and all other state and local laws and regulations identified in Plaintiff's [sic] complaint or otherwise in existence to the extent that they do not recognize same-sex marriages validly contracted outside Arkansas, prohibit otherwise qualified same-sex couples from marrying in Arkansas or deny same-sex married couples the rights, recognition and benefits associated with marriage in the State of Arkansas.
>
> ...
>
> This final order is entered to reflect the original intent of the Court's May 9, 2014 Order and to clarify and protect the rights and interests of all who reasonably relied upon and/or acted in accordance with the letter, sprit [sic] and/or intent of this Court's May 9, 2014 Order and to further serve the interest of justice in this matter.

Finally, Judge Piazza entered an "Order Entering 'Final Order and Rule 54(B) Certification' Nunc Pro Tunc" on May 15, 2014. That order is the focal point of the instant controversy and the ground on which Director Walther asserts that Plaintiffs in

this lawsuit do not have valid same-sex marriages. The Order reads, in its entirety, as follows:

> Comes now the Court on this 15th day of May, 2014 to file the "Final Order and Rule 54(b) Certification" *nunc pro tunc.*
>
> On May 9, 2014, this Court filed an "Order Granting Summary Judgment in Favor of the Plaintiffs and Finding Act 144 of 1997 and Amendment 83 Unconstitutional." Defendants filed their Motion for Immediate Stay on May 9, 2014 and appealed this matter to our State's Supreme Court the next day, a non-business day, on May 10, 2014. The latter filing had the effect of removing the case from this Court's jurisdiction prior to ruling on the motion for stay and without certification pursuant to Arkansas Rules of Civil Procedure 54(b). Rule 2(a)(1) of the Ark. R. Appellate Procedure provides that an appeal may be taken only from final judgment. It was argued above that the Court's May 9th Order was not yet final. The Arkansas Supreme Court agreed, dismissed the appeal as premature and returned the matter to this Court's jurisdiction for further adjudication.
>
> ---
>
> Reference to the specific citation of Act 146 of 1997 (codified at Ark. Code Ann. § 9-11-208) and the Plaintiff's [sic] request for injunctive relief were inadvertently omitted as clerical error in this Court's "Order Granting Summary Judgment in Favor of the Plaintiffs and Finding Act 144 of 1997 and Amendment 83 Unconstitutional."
>
> The inadvertence of the court's omission is evidenced by the first part of the May 9th order's title which states that it grants the Plaintiffs' Motion for Summary Judgment and is further apparent from the court's analysis that it finds identical prohibitions in the law which deny such rights referenced therein unconstitutional.
>
> A final order was entered to reflect the original intent of the Court's May 9, 2014 Order and to clarify and protect the rights and interests of all who reasonably relied upon and/or acted in accordance with the letter, sprit [sic] and/or intent of this Court's May 9, 2014 Order and to further serve the interest of justice in this matter.
>
> It is for these reasons that the Court's "Final Order and Rule 54(b) Certification" is entered *nunc pro tunc* to May 9, 2014.
>
> IT IS SO ORDERED this 15th day of May, 2014.

The June 8, 2015 hearing was limited to oral argument concerning whether Plaintiffs are entitled to the declaratory and injunctive relief demanded in their complaint.

Specifically, Plaintiffs contend that they are entitled to a declaratory judgment that recognizes the validity of their May 12, 2014 marriages and argue that Director Walther's refusal to recognize the validity of their marriages violates their right to due process of law and their right to equal protection of the laws, rights guaranteed by the Fourteenth Amendment to the Constitution of the United States and Article 2, §§ 3 and 18 of the Arkansas Constitution.

Plaintiffs Angelia Frazier-Henson and Katherine Henson (hereafter "Plaintiffs Henson") and Markett Humphries and Dianna Christy (hereafter "Plaintiffs Humphries-Christy") allege that Defendant Larry Walther violated their rights to substantive due process and equal protection by refusing to permit them to jointly file their Arkansas income tax return for 2014 solely because they are a same-sex couple. They seek an injunction that orders Director Walther to permit them to jointly file their Arkansas income tax return.

Plaintiffs Humphries-Christy also allege that Defendant Walther refused to permit Christy to enroll as Humphries' spouse on the health insurance policy provided to Humphries as an employee of the State of Arkansas solely because they are a same-sex couple. These Plaintiffs seek an injunction that orders Director Walther to permit Christy to enroll in the health insurance provided to Humphries, her spouse.

Director Walther admits that Plaintiffs were issued marriage licenses on May 12, 2014 by the Circuit Clerk of Pulaski County, Arkansas, and that Plaintiffs were engaged in marriage ceremonies on that date. However, Director Walther contends that Judge Piazza's May 9, 2014 ruling that declared Amendment 83 to the Arkansas Constitution unconstitutional did not remove the constitutional and statutory barriers to same-sex

marriage prescribed by Amendment 83 and Arkansas Code Annotated §§ 9-11-109 and 208 (Acts 144 and 146 of 1997), which only recognize marriage as lawful when between persons of different sexes. Director Walther argues that Judge Piazza's May 15, 2014 order that granted the demand for injunctive relief asserted by the plaintiffs in *M. Kendall Wright, et al. v. State of Arkansas, et al.*, 60 CV-13-2662, *nunc pro tunc* to May 9, 2014 was ineffective to validate the May 12, 2014 marriage licenses issued to Plaintiffs in the instant case.

**Analysis**

It is important to emphasize that this memorandum opinion and order does not review the merits of Judge Piazza's courageous and plainly stated May 9, 2014 ruling that held the constitutional and statutory ban on same-sex marriage in Arkansas to violate the Due Process and Equal Protection Clauses of the United States and Arkansas Constitutions. Judge Piazza's ruling is currently on appeal to the Arkansas Supreme Court, which has received briefs, held oral argument, and will eventually render a decision stating its position on its merits.

Rather, the question presented by this lawsuit and determined by this ruling is whether Judge Piazza had the authority on May 15, 2014, under Rule 60 of the Arkansas Rules of Civil Procedure, to enjoin enforcement of Ark. Code Ann. § 9-11-208 retroactively—*nunc pro tunc*—to May 9, 2014 (the date of his ruling) when the May 9 ruling omitted that statute and omitted language stating that he was granting injunctive relief from the laws that imposed the same-sex marriage ban. Plaintiffs argue that Rule 60 clearly authorized Judge Piazza to do so. Director Walther argues that Rule 60 does not convey that authority.

The language in Rule 60 that pertains to this controversy is found at subsections (a) and (b), which read as follows:

> (a) *Ninety-Day Limitation.* To correct errors or mistakes or to prevent the miscarriage of justice, the court may modify or vacate a judgment, order or decree on motion of the court or any party, with prior notice to all parties, within ninety days of its having been filed with the clerk.
> (b) *Exception; Clerical Errors.* Notwithstanding subdivision (a) of this rule, the court may at any time, with prior notice to all parties, correct clerical mistakes in judgments, decrees, orders, or other parts of the record and errors therein arising from oversight or omission. During the pendency of an appeal, such mistakes may be so corrected before the appeal is docketed in the appellate court and thereafter while the appeal is pending may be so corrected with leave of the appellate court.

The Court holds that Rule 60 of the Arkansas Rules of Civil Procedure clearly authorized Judge Piazza to enter his May 15, 2014 Final Order and Rule 54(b) Certification *nunc pro tunc* to May 9, 2014, the date of his original ruling that declared the Arkansas ban on same-sex marriages found in Amendment 83 to the Arkansas Constitution of Arkansas and Act 144 of 1997 (codified at Ark. Code Ann. § 9-11-107 and 109) unconstitutional violations of the Due Process and Equal Protection Clauses of the Constitutions of the United States and the State of Arkansas. By its plain wording, Rule 60(a) states that in order "[t]o correct errors or mistakes or to prevent the miscarriage of justice," a trial court "may modify ... a judgment, order or decree on motion of the court or any party, with prior notice to all parties, within ninety days of its having been filed with the clerk." Judge Piazza's May 15, 2014 order clearly modified his May 9 ruling that was made six days earlier. Hence, his action was explicitly authorized by Rule 60(a).

Furthermore, Director Walther's argument that Judge Piazza's May 15 order could not validly be made retroactive—*nunc pro tunc*—to May 9 misapplies Rule 60(b).

That sub-section of the Rule expressly provides that a "court may at any time, with prior notice to all parties, correct clerical mistakes in judgments, decrees, orders, or other parts of the record and errors therein arising from oversight or omission." Rule 60(b) contains no time limitation.

But Director Walther does not challenge the timeliness of what Judge Piazza did by his May 15 order. Instead, Director Walther argues that what Judge Piazza ordered on May 15 was ineffective to cover the "window marriages" performed after Judge Piazza's May 9 ruling but before May 15 when he entered the order enjoining enforcement of the Arkansas constitutional and statutory bans on same-sex marriage in keeping with his ruling that the ban violates the federal and state constitutional guarantees to substantive due process and equal protection of the law.

Despite the fact that Judge Piazza's May 9 order states in its title that he was granting summary judgment in favor of the plaintiffs in *Wright v. State of Arkansas*, despite the fact that Judge Piazza's May 9 order states in its title his finding that Act 144 of 1997 (codified at Ark. Code Ann. § 9-11-107 and 109 for purposes of this litigation) and Amendment 83 of the Arkansas Constitution are unconstitutional, despite the fact that Judge Piazza's May 15 final order specifically granted the *Wright* plaintiffs' demands for declaratory and injunctive relief and admitted that those features were inadvertently omitted from the May 9 ruling, and despite the candid acknowledgement by counsel for Director Walther that the State of Arkansas acted within minutes of Judge Piazza's May 9 ruling to move to stay its operation, Director Walther argues that Judge Piazza had no power to give his May 15 final order retroactive effect to May 9. That

argument, however sincerely asserted, is both logically absurd and fundamentally unjust.

The logical absurdity of Director Walther's position is exposed by the explicit wording of Rule 60 and by the appellate decisions that address its application. As already mentioned, Rule 60(a) has a ninety-day limitation on a trial court's power to modify or correct errors in a judgment, order, or decree. Rule 60(b) defines the exception to the ninety-day limitation and labels that exception as "clerical error". Rule 60(b)'s clerical error exception authorizes trial courts to "correct clerical mistakes" in judgments, orders, or decrees "*and* errors arising therein from oversight or omission." Director Walther's challenge to Judge Piazza's May 15 order being effective retroactively arises from his insistence on treating the "clerical mistakes" part of Rule 60(b) as synonymous with "errors therein arising from oversight or omission." That error reflects misuse of grammar and logic.

Elementary school grammar students are taught and know that the word "and" is a conjunction, meaning that it functions in grammatical usage to connect separate ideas, concepts, and realities. For example when one uses the term "peanut butter and jelly" anyone who knows anything about peanut butter and jelly understands that two very different foods are mentioned. Peanut butter is not jelly. Jelly is not peanut butter. They may be on the same slice of bread to constitute tasty ingredients for a sandwich. That fact, however, does not make them one and the same.

The same reasoning must be applied to the language in Rule 60(b) that authorizes a court to "correct clerical mistakes in judgments, decrees, orders or other parts of the record *and* errors therein [meaning judgments, decrees, orders, or other

parts of the record] arising from oversight or omission." The power to "correct clerical mistakes" and the power to correct "errors ... arising from oversight or omission" is expressed in the same sentence. But "clerical mistakes" and "errors ... arising from oversight or omission" are not the same things. They are different realities (like peanut butter and jelly).

Appellate decisions in Arkansas bear out the distinction between "clerical mistakes" and "errors ... arising from oversight or omission" quite clearly despite Director Walther's argument that purports to conflate the two realities so that they only mean "clerical mistakes." The Arkansas Supreme Court has held that a trial court is not authorized under the "clerical mistakes" meaning in Rule 60(b) to issue a *nunc pro tunc* order that extends the prescribed deadline for timely filing an appeal from an adverse trial court decision. *Rossi v. Rossi*, 319 Ark. 373, 892 S.W.2d 246 (1995). On the other hand, our supreme court has affirmed a trial court that entered a *nunc pro tunc* order that corrected a decree that ordered a husband to pay $1,438.00 in alimony arrearages when in fact the arrearage was $5,782.91, a "true clerical error" according to Justice George Rose Smith's opinion caused by "a mistake in adding the figures on an adding machine." *Luckes v. Luckes*, 262 Ark. 770, 561 S.W.2d 300 (1978). The *nunc pro tunc order* that was entered twenty-four days later "modified the decree to show the correct amount." *Id.*

Director Walther insists that Judge Piazza's May 15, 2014 *nunc pro tunc* order declaring Amendment 83 and Acts 144 and 146 of 1997 unconstitutional and enjoining their enforcement did not correct a "clerical error." The short answer to that argument is that Rule 60 does not limit a trial court's power to modify a past ruling to "clerical error."

That is the upshot of the 2003 decision by the Arkansas Court of Appeals in *Fritzinger v. Beene*, 80 Ark. App. 416, 97 S.W.3d 440 (2003). In that case, the court of appeals affirmed a trial judge decision to modify a $92,500 judgment against the City of Conway following a jury verdict in favor of a personal injury plaintiff. Thirty days after the judgment was entered the city moved, pursuant to Rule 60(a), to modify the judgment amount to $25,000, the amount that it contended was its maximum liability under Arkansas statutes governing tort immunity. Judge Olly Neal's opinion for the court in *Fritzinger* contains the following language that is particularly pertinent to the present case.

> Appellant argues that Rule 60(a) was not applicable in this case because it should only be used to correct the record, not to do something which, in retrospect, ought to have been done. *See, Harrison v. Bradford*, 9 Ark. App. 156, 655 S.W.2d 466 (1983). However, Rule 60(a), as modified in 2000, allows the trial court not only to correct errors or mistakes but to "prevent the miscarriage of justice." The term "miscarriage of justice" is not limited to clerical errors. *See Lord v. Mazzanti*, 339 Ark. 25, 2 S.W.3d 76 (1999); David Newbern and John Watkins, *Arkansas Civil Practice and Procedure* § 26-12 at 391, n. 3 (3 ed. 2002). A trial court has broad authority to correct non-clerical errors or mistakes so as to prevent the miscarriage of justice. *See Lord v. Mazzanti, supra.*
>
> Had the trial court allowed a $92,500 verdict against the city of Conway to stand, a miscarriage of justice would have occurred in this case. The law clearly provides that the city's maximum liability is $25,000. *Ark. Code Ann. § 21-9-303(b)(Repl.1996).* Thus, the trial court's use of Rule 60(a) to conform the verdict to the limits of the law was not an abuse of discretion.

The obvious flaw in Director Walther's position is that it is bottomed on an inaccurate reading of Rule 60. Rule 60 does not limit the power of a trial court to modify or correct an order to merely "clerical errors." Arkansas trial courts plainly are authorized to correct "clerical mistakes" and "errors ... arising from oversight or omission" *at any time* as stated at Rule 60(b). Moreover, Rule 60(a) is equally explicit in authorizing Arkansas trial courts to "modify ... a judgment, order, or decree, within ninety days after

the judgment, order, or decree has been filed with the clerk, "[t]o correct errors or mistakes or to prevent the miscarriage of justice." The position asserted by Director Walthers contradicts the plain wording of Rule 60 and, as shown above, flies in the face of Arkansas appellate decisions.

Even if Rule 60 was confined to "clerical errors", Judge Piazza was plainly authorized to enter the May 15 order *nunc pro tunc*. As explained above, Rule 60(b) authorizes at any time the correction of errors arising from oversights or omissions in judgments, orders or decrees. Errors arising from *oversights or omission* are, by the explicit wording of Rule 60(b), clerical errors. "An oversight or omission has occurred when the trial court inadvertently failed to set out a matter it originally intended to include." *Hollins v. Hollins*, 2009 Ark. App. 319, at 4; *Linn v. Miller*, 99 Ark. App. 407, 412, 261 S.W.3d 471, 475 (2007). Thus, Judge Piazza's intent is dispositive of the question of his authority under Rule 60(b).

Judge Piazza's intent to grant the injunctive relief sought and to declare the statutory prohibition on issuing marriage licenses to same-sex couples unconstitutional is quite clear from the May 9 order. In his well reasoned thirteen page opinion, Judge Piazza concludes that "[t]he exclusion of same-sex couples from marriage for no rational basis violates the fundamental right to privacy and equal protection", and therefore, "this Court hereby finds the Arkansas constitutional and legislative ban on same-sex marriage ... is unconstitutional." Put simply, Judge Piazza's intent in his May 9 order was to stop the State of Arkansas from prohibiting same-sex couples from being married. That intent could not be effectuated unless Judge Piazza issued an injunction and declared Ark. Code Ann. 9-11-208 unconstitutional. Even more indicative of Judge

Piazza's intent and dispositive of the current question are Judge Piazza's own words. In the May 15 order, he states, "it is and was the intent of the [May 9] Order to grant Plaintiffs' Motion for Summary Judgment without exception and as to all injunctive relief requested therein." It is clear to this Court that Judge Piazza was explicitly authorized by Rule 60(b) to correct omissions in the May 9 order with his May 15 order *nunc pro tunc*.

**Conclusion**

Seventy-six years ago Justice Hugo Black of the Supreme Court of the United States stated the functions of courts in words that are particularly relevant to this lawsuit and the larger issue about which Judge Piazza ruled in May 2014. Writing for a unanimous Supreme Court in reversing Florida capital murder convictions of four black men in the death of an elderly white man, Justice Black wrote: "Courts ... stand as havens of refuge for those who might otherwise suffer because they are helpless, weak, outnumbered, or ... non-conforming victims of prejudice and public excitement." *Chambers v. Florida*, 309 U.S. 227 (1940).

The same-sex couples who are plaintiffs in this lawsuit seek to have their marriages recognized as valid. Defendant Walther refuses to do so, despite Judge Piazza's clear decision that the scheme of constitutional and statutory prohibitions against same-sex marriage violate the fundamental right of marriage and violate the rights of same-sex couples guaranteed by the Due Process Clause and the Equal Protection Clause found in the Constitution of the United States and the Constitution of Arkansas. With shameless disrespect for fundamental fairness and equality, Director Walther insists on treating the marriages of same-sex couples who received marriage

licenses between May 9 and May 15 as "void from inception as a matter of law" (*see*, Answer at ¶¶ 8, 14, 15, 16, 17, 49, 66, and 84). Meanwhile, Director Walther asserts that "heterosexual marriages performed in the State of Arkansas between May 10, 2014 and May 16, 2014 are valid" (*see*, Answer at ¶ 38).

This Court categorically rejects Director Walther's manifestly inaccurate and tortured mis-interpretation of Rule 60 of the Arkansas Rules of Civil Procedure. If the position Director Walther asserts would not produce a "miscarriage of justice" as that term is understood within the meaning of Rule 60(a), the words "miscarriage" and "justice" have no meaning. Judge Piazza's May 15, 2014 *nunc pro tunc* order was entered six days after he announced that Arkansas constitutional and statutory prohibitions on same-sex marriage violate substantive due process and equal protection of the law. The notion that Judge Piazza would make that announcement and permit the unconstitutional prohibition against same-sex marriage to remain in effect after May 9, thereby subjecting these plaintiffs and other same-sex couples who obtained marriage licenses in the six day period between his ruling and May 16, 2014 to "suffer because they are ... outnumbered, or non-conforming victims of prejudice and public excitement," is absurd. Plainly, the May 15, 2014 *nunc pro tunc* order was issued to "correct errors or mistakes or to prevent the miscarriage of justice" as authorized by Rule 60(a) and to correct clerical "errors... arising from oversight or omission" as authorized by Rule 60(b).

Accordingly, the Court HEREBY declares that the refusal by Director Walther to recognize the marriages of Plaintiffs and same-sex couples who were married between May 10 and May 16, 2014, as valid, and to accord those marriages with all benefits,

rights, and privileges extended to heterosexual marriages that were licensed during that time span violates the Plaintiffs' rights to due process of law and equal protection of the law as guaranteed by the Fourteenth Amendment to the Constitution of the United States and Article 2, § 3 of the Arkansas Constitution's Declaration of Rights.

Plaintiffs' prayer for injunctive relief is HEREBY GRANTED in all respects. Specifically, Director Walther is hereby and immediately (a) enjoined from denying the validity of Plaintiffs' marriage licenses, (b) enjoined from denying the validity of Plaintiffs' status as married persons, (c) enjoined from denying Plaintiffs from filing joint tax returns as married persons, and (d) enjoined from refusing to enroll same-sex spouses in the state health insurance plan on the sole basis that the applicant is a same-sex spouse. Furthermore, Director Walther is HEREBY, and expressly mandated to (e) accept joint income tax returns and accept applications for state health insurance from same-sex couples who were married between May 10 and May 16, 2014, and (f) to henceforth extend to same-sex couples married between May 10 and May 16, 2014 the same rights, privileges, and benefits recognized for heterosexual marriages performed during those dates.

The oral motion to voluntarily dismiss the Complaint of Allen Ray Cox against Defendant Carolyn Colvin is GRANTED WITHOUT PREJUDICE.

IT IS SO ORDERED this 9th day of June, 2015.

WENDELL LEE GRIFFEN
Circuit Judge