



June 23, 2014

By mail & facsimile: (608) 267-2779

**American Civil  
Liberties Union  
of Wisconsin Foundation  
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The Honorable J.B. Van Hollen  
Attorney General, State of Wisconsin  
Room 114 East, State Capitol  
Madison, Wisconsin 53707

Dear Attorney General Van Hollen:

As you know, judgment was entered last Thursday morning, June 19, 2014, in *Wolf v. Walker*, Case No. 14-C-00064-BBC (W.D. Wis., filed February 3, 2014). You have said repeatedly that you would appeal Judge Crabb's ruling that Wisconsin's refusal to allow same-sex couples to marry violates the Fourteenth Amendment to the U.S. Constitution. You and Governor Walker<sup>1</sup> are now in the position of: (1) recognizing the futility of this appeal and seeking to vacate the stay entered by the district court, (2) filing your notice of appeal promptly, or (3) delaying the case for the full thirty days the federal rules allow you to file your notice "after the entry of such judgment, order or decree."<sup>2</sup>

If you and Governor Walker are appealing, we ask that you do so promptly. Each day you delay causes further injury to our clients and other same-sex couples in Wisconsin who are unable to marry or whose marriages entered outside the state are being denied recognition. Those harms include the uncertainty our clients, Kami Young and Karina Willes, face regarding the recognition of their marriage for purposes of Karina's parental relationship with their child born in March. It is difficult to imagine a greater fear than knowing your parental relationship might be challenged, as could happen to Karina in the absence of the presumption of parentage denied them because of the marriage ban. Proof of this problem is that Kami and Karina were told at the hospital that Karina's name could not be placed on their child's birth certificate. Bill Hurtubise and Dean Palmer and their children face the same insecurity because their inability to marry makes it difficult

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<sup>1</sup> We are directing this request to you and Governor Walker, since Governor Walker controls the remaining state defendant, Oskar Anderson, through his appointment power over the Secretary of the Department of Health Services, who serves at his pleasure pursuant to Wis. Stat. § 15.05(1)(a). The Department of Health Services appoints Mr. Anderson. Wis. Stat. § 69.02(1)(b).

<sup>2</sup> 28 U.S.C. § 2107(a).

for them to jointly adopt their children.<sup>3</sup> In addition, Wisconsin's marriage ban "humiliates tens of thousands of children now being raised by same-sex couples" by "plac[ing] same-sex couples in an unstable position of being in a second-tier marriage." *Windsor v. United States*, 133 S. Ct. 2675, 2694 (2013).

Our clients and other same-sex couples in Wisconsin are faced with the continuing indignity of seeing their families denigrated by the state's refusal to allow them to marry or to recognize their marriages entered elsewhere.

Even if you believe you will win, please file your appeal promptly to resolve the uncertainty that same-sex couples, their children, as well as employers and other businesses and government offices who interact with same-sex couples are facing until the constitutionality of Wisconsin's ban on marriage is resolved.

Sincerely,



Laurence J. Dupuis  
Legal Director  
ACLU of Wisconsin Foundation



John A. Knight  
Senior Staff Attorney  
LGBT & AIDS Project  
ACLU Foundation

cc: Timothy Samuelson  
Thomas Bellavia  
Clayton Kawski

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<sup>3</sup> For example, they were advised during the foster-to-adopt process that in Wisconsin, an unmarried couple could not jointly adopt a child. As a result, Bill is only a legal guardian to those two children and not a full legal parent.