

No. 2014-2184

**UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT**

ADA MERCEDES CONDE-VIDAL; MARITZA LOPEZ-AVILES; IRIS DELIA RIVERA-RIVERA; JOSE A. TORRUELLAS-IGLESIAS; THOMAS J. ROBINSON; ZULMA OLIVERAS-VEGA; YOLANDA ARROYO-PIZARRO; JOHANNE VELEZ-GARCIA; FAVIOLA MELENDEZ-RODRIGUEZ; PUERTO RICO PARA TOD@S; IVONNE ALVAREZ-VELEZ,

Plaintiffs-Appellants,

v.

DR. ANA RIUS-ARMENDARIZ, in her official capacity as Secretary of the Health Department of the Commonwealth of Puerto Rico; WANDA LLOVET DIAZ, in her official capacity as the Director of the Commonwealth of Puerto Rico Registrar of Vital Records; ALEJANDRO J. GARCIA-PADILLA, in his official capacity as Governor of the Commonwealth of Puerto Rico; JUAN C. ZARAGOSA-GOMEZ, in his official capacity as Director of the Treasury in Puerto Rico,

Defendants-Appellees.

On Appeal from the United States District Court for the District of Puerto Rico in
Case No. 3:14-cv-01253, Judge Juan M. Pérez-Giménez

JOINT RESPONSE PURSUANT TO COURT ORDER

June 26, 2015

Pursuant to this Honorable Court's Order of April 14, 2015, the parties have conferred and hereby respectfully propose the following regarding further proceedings in this case:

1. On April 9, 2015, Plaintiffs-Appellants made a request for assignment and asked the Court to schedule oral argument "as soon as possible and, in any event, no later than this Court's July/August 2015 sitting." Request for Assignment, *Conde-Vidal v. Rius-Armendariz*, No. 14-2184 (1st Cir. Apr. 9, 2015). On April 14, 2015, the Court ordered the parties to confer and propose a schedule for further proceedings "within 14 days of the Supreme Court's decision in the same-sex marriage cases, *Obergefell v. Hodges*, No. 14-556, etc." Order, *Conde-Vidal v. Rius-Armendariz*, No. 14-2184 (1st Cir. Apr. 14, 2015).

2. On June 26, 2015, the Supreme Court issued its opinion in *Obergefell*, holding that "the right to marry is a fundamental right inherent in the liberty of the person, and under the Due Process and Equal Protection Clauses of the Fourteenth Amendment couples of the same-sex may not be deprived of that right and that liberty." *See Obergefell v. Hodges*, No. 14-556, slip op. at 22 (June 26, 2015).

3. The Supreme Court's opinion striking down marriage bans in Ohio, Kentucky, Michigan, and Tennessee controls the outcome of this case. The marriage bans considered by the Supreme Court are nearly identical to Puerto Rico's Marriage Ban. Each denies licenses to same-sex couples who wish to

marry, and each denies married same-sex couples any legal recognition of their marriages licensed in other jurisdictions. *Compare, e.g.*, Ohio Rev. Code Ann. § 3101.01(C) and Ohio Const. art. XV, § 11 with P.R. Laws Ann. tit. 31, §221.

4. In holding that same-sex couples share equally in the fundamental right to marry and to have their marriages recognized, the Court explicitly overruled *Baker v. Nelson*, 409 U. S. 810 (1972). *Obergefell*, slip op. at 22-23.

5. Having conferred pursuant to this Court's order, Plaintiffs-Appellants and Defendants-Appellees agree that the Supreme Court's decision in *Obergefell* resolves the questions presented by this case. The Supreme Court's determination that barring same-sex couples from marrying and having their marriages recognized violates the Fourteenth Amendment requires a finding that Puerto Rico's Marriage Ban is also unconstitutional, and the parties agree that this Court can resolve this matter promptly without additional submissions or oral argument.

6. The parties respectfully request that this Court issue a decision as soon as possible reversing the District Court's dismissal of this matter, holding Puerto Rico's Marriage Ban unconstitutional, and remanding for entry of judgment for the Plaintiffs-Appellants.

7. Should this Court nonetheless believe it would benefit from hearing oral argument, Plaintiffs-Appellants and Defendants-Appellees respectfully request

that oral argument be scheduled no later than July 2015 to facilitate the prompt disposition of this appeal.

For the foregoing reasons, Plaintiffs-Appellants and Defendants-Appellees respectfully request that the Court promptly hold that Puerto Rico's Marriage Ban is unconstitutional, reverse the District Court's dismissal, expedite issuance of the mandate, and remand the case to the District Court with orders to enter judgment in Plaintiffs-Appellants' favor.

June 26, 2015

Respectfully submitted,

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CERTIFICATE OF SERVICE

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