

FILED

United States Court of Appeals  
Tenth Circuit

UNITED STATES COURT OF APPEALS

August 21, 2014

FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker  
Clerk of Court

CATHERINE BURNS; SHEILA  
SCHROEDER; MARK THRUN;  
GEOFFREY BATEMAN; RACHEL  
CATT; CASSIE RUBALD; BREANNA  
ALEXANDER; STACY PARRISH;  
ANGELA CRANMORE; JULIANNE  
DELOY; KAREN COLLIER; DENISE  
LORD,

Plaintiffs - Appellees,

v.

JOHN SUTHERS, in his official capacity  
as Attorney General of Colorado,

Defendant - Appellant,

and

JOHN W. HICKENLOOPER, JR., in his  
official capacity as Governor of  
Colorado; PAM ANDERSON, in her  
official capacity as Clerk and Recorder  
for Jefferson County,

Defendants.

No. 14-1283  
(D.C. No. 1:14-CV-01817-RM-KLM)  
(D. Colo.)

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**ORDER**

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Before **HARTZ** and **EBEL**, Circuit Judges.

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John Suthers moves for a stay pending appeal of the district court's order granting plaintiffs' motion for a preliminary injunction enjoining Colorado's ban on

same-sex marriage. Appellees have filed a response opposing the stay motion. Upon consideration of the circumstances of this case, we exercise our discretion to grant a stay. *See Nken v. Holder*, 556 U.S. 418, 433 (2009) (recognizing discretionary nature of stay and need to consider circumstances of particular case).

Recently, we exercised our discretion to grant stays in two cases in which we held that same-sex marriage bans in Utah and Oklahoma were unconstitutional. *See Kitchen v. Herbert*, 755 F.3d 1193, 2014 WL 2868044, at \*32 (10th Cir. June 25, 2014), *petition for cert. filed* (Aug. 5, 2014) (No. 14-124); *Bishop v. Smith*, \_\_\_ F.3d \_\_\_, 2014 WL 3537847, at \*21 (10th Cir. July 18, 2014), *petition for cert. filed* (Aug. 6, 2014) (No. 14-136). In the interests of consistency, we see no reason to deviate from this approach in this case. Furthermore, yesterday, the United States Supreme Court granted an application to stay the mandate in No. 14A196, *McQuigg v. Bostic*, a Fourth Circuit case upholding same-sex marriages, pending the timely filing and disposition of a petition for writ of certiorari.

Accordingly, we grant Mr. Suthers' motion for a stay pending appeal.

Entered for the Court



ELISABETH A. SHUMAKER, Clerk