

RIN THE CIRCUIT COURT OF BOONE COUNTY, MISSOURI

In Re The Marriage Of:)	
DENA MARIE LATIMER and)	
NATALIE SAMANTHA LATIMER,)	
)	
DENA MARIE LATIMER,)	
PETITIONER,)	
)	
v.)	CASE NO.: 13BA-FC00363
)	
NATALIE SAMANTHA LATIMER,)	
RESPONDENT.)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECLARATORY JUDGMENT**

NOW on this 14th day of February 2014, comes on for hearing in the above styled cause Petitioner’s Petition for Annulment or in the Alternative Declaratory Judgment; Petitioner appears in person and by counsel, Tana Benner, and the Respondent appears in person pro se. Both parties announce ready for hearing, evidence was adduced and the cause was passed for filing of proposed Findings of Fact and Conclusions of Law.

The Court being fully advised in the premises and after due consideration, makes Findings of Fact and Conclusions of Law, declaring and determining as follows:

FINDINGS OF FACT

1. Petitioner resides at 1904 Starlight Drive, Boone County, Columbia, Missouri 65202; she has resided in Boone County, Missouri for the past thirty-five years.
2. Respondent resides at 5032 Clark Lane, Boone County, Columbia, Missouri 65202; she has resided in Boone County, Missouri for the past ninety (90) days.
3. The parties were married on March 26, 2009, in Aquinnah, Massachusetts and their marriage is registered in Dukes County, Massachusetts.
4. The parties separated on or about August 30, 2012.
5. There are no minor children born to either or adopted by both parties after the date of their wedding in Massachusetts.

6. The relationship of Petitioner and Respondent is irretrievably broken.

7. On February 25, 2013, Petitioner filed her Petition for Annulment or in the Alternative Declaratory Judgment.

8. The matter was set for hearing on May 15, 2013.

9. On May 16, 2013, the parties appeared and Petitioner was ordered to submit a brief regarding the authority of the Court to enter annulment under the circumstances plead in the case.

10. Counsel for Petitioner filed said brief with the Court on June 6, 2013.

11. On June 3, 2013, the Court entered an order finding no authority to enter Judgment of Annulment and keeping the cause set on Petition for Declaration Judgment only as to status in Missouri only.

12. On February 14, 2014, the cause came on for final hearing

13. Petitioner and Respondent both testified that they believed their marriage and relationship was irretrievably broken and no issues remained between the parties with respect to property or debt.

14. Petitioner and Respondent both testified that had lived in Missouri for years and that no other state or court had the authority to enter an order that would dissolve, annul or declare their marriage void.

15. The Court finds that the relationship between the parties is irretrievably broken.

16. The Court has exclusive jurisdiction over the marital status of the parties.

17. The Defense of Marriage Act, Section 451.022 RSMo, expressly prohibits the court from recognizing a same-sex marriage. However, the marriage in this cause is valid in the

State of Massachusetts and such a marriage may trigger an array of extra-territorial and federal ramifications.

18. The Court finds that it possesses jurisdiction of the case and has the power and authority to provide a judicial remedy by way of a declaratory judgment.

19. The parties have entered into an agreement which provides for the division of their property and debts, and said property and debts have been divided.

CONCLUSIONS OF LAW

20. Missouri Court have entered judgments with respect to marriages that were not legally recognized in Missouri in the case of *State v. Eden*, 169 S.W.2d 342, 345 (1943). The court in *Eden* discussed that although bigamy is illegal, this does not necessitate that subsequent marriages after the first are void, but rather *voidable*. *State v. Eden*, at 937. Similarly, in the case of *Nelson v. Marshall*, 869 S.W.2d 132, 134 (Mo. App. W.C. 1993), the court held that because Petitioner and Respondent had failed to obtain a marriage license, their purported marriage was invalid even though they had a ceremony. Finally, the case of *Bellamy v. Whitsell*, 100 S.W. 514, 151-16 (Mo. App. W.D. 1907) discusses that although the state has an interest in promoting marriage, marriages between people who are under age will be invalid. The Defense of Marriage Act, Section 451.022 RSMo, expressly prohibits the court from recognizing a same-sex marriage. However, as the above cases indicate, the court maintains authority to enter judgment with respect to a marriage that is not legally recognized.

21. Granting a declaratory judgment in this matter does not require that Missouri affirm or recognize the marriage. Rather, as a matter of comity, Missouri court can utilize the law of the place where the marriage was formed for the limited purpose of granting equitable relief. Under the doctrine of comity, the state has the power to grant a judicial remedy which is

not required by the Full Faith and Credit Clause. *Estate of Angevine v. Evig*, 675 S.W.2d 440, 443 (Mo. Ct. App. 1984) (quoting *Milwaukee County v. M.E. White Co.*, 296 U.S. 268, 272, 56 S.Ct. 229, 231, 80 L.Ed. 220 (1935)). Hence, the court recognizes that the marriage in the case at hand is valid under the laws of Massachusetts declares the marriage dissolved or void, without finding that a valid marriage exists under the laws of Missouri.

22. By denying same-sex married couples residing in Missouri the ability to void or dissolve their marriage, the State runs afoul of its due process obligations under the Fourteenth.

DECLARATORY JUDGMENT

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED BY THE COURT:

23. The marriage of Dena Marie Latimer and Natalie Samantha Latimer is hereby declared void, of no effect, and is dissolved.

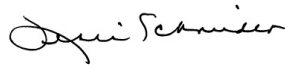
24. The real estate located at 1904 Starlight Drive, Columbia, Missouri is set aside to Petitioner as her sole property. Respondent executed a Quit Claim Deed in Petitioner's favor on September 25, 2012, with respect to said real estate which is recorded with the Boone County Recorder of Deeds. Said real estate is more specifically described as follows:

LOT EIGHT (8) OF LAMP LIGHT SQUARE SUBDIVISION IN THE CITY OF COLUMBIA, BOONE COUNTY, MISSOURI, AS SHOWN BY THE PLAT THEREOF RECORDED IN PLAT BOOK 9, PAGE 42, RECORDS OF BOONE COUNTY, MISSOURI.

The real estate is currently encumbered by a mortgage through Nationstar Mortgage, which is in Petitioner's sole name. Petitioner shall pay the mortgage and hold Respondent harmless therefrom.

25. Each party is ordered to pay their own attorney's fees incurred herein.

26. Court costs are taxed to Petitioner by consent.



Honorable Leslie Schneider
Circuit Court Judge, Boone County
Division X

Dated: 4/10/14