

CV-14-427

BEFORE THE ARKANSAS SUPREME COURT

M. KENDALL WRIGHT, et al.

PLAINTIFFS-APPELLEES

VS.

Case No. CV-14-427

NATHANIEL SMITH, MD, MPH, et al.

DEFENDANTS-APPELLANTS

MOTION OF *AMICUS CURIAE*
FOR LEAVE TO FILE AN
AMICUS BRIEF IN SUPPORT OF APPELLANTS

ANTHONY B. TAYLOR,
BISHOP OF THE ROMAN CATHOLIC
DIOCESE OF LITTLE ROCK

MATTHEW A. GLOVER (Bar #2008196)
Vice Chancellor for Canonical Affairs
Catholic Diocese of Little Rock
2500 North Tyler Street
Little Rock, Arkansas 72207
Phone: (501) 664-0340
Facsimile: (501) 664-5835
mglover@dolr.org

DAVID F. MENZ (Bar #74108)
Williams & Anderson PLC
111 Center Street, Suite 2200
Little Rock, Arkansas 72201
Direct: (501) 396-8616
Facsimile: (501) 396-8516
dmenz@williamsanderson.com

*Attorneys for Amicus Curiae Anthony B. Taylor,
Bishop of the Roman Catholic Diocese of Little Rock*

Amicus curiae by and through counsel, Williams & Anderson, PLC, seek permission pursuant to Rule 4-6 of the Rules of the Supreme Court and Court of Appeals of Arkansas to file an *Amicus* Brief in support of the Appellants, Nathaniel Smith, MD, MPH, et al. (“Appellants”) in this matter. In support of its request, proposed *amicus curiae* states as follows:

THE INTEREST OF THE *AMICUS* TO THIS CASE

1. Proposed *amicus curiae* is Anthony B. Taylor, Bishop of the Roman Catholic Diocese of Little Rock (the “Diocese of Little Rock”). The Roman Catholic Church is a worldwide religious body, which is comprised of particular Churches having specific geographical boundaries. The geographical boundaries of the Roman Catholic Diocese of Little Rock—also sometimes called the “Catholic Diocese of Little Rock” or simply the “Diocese of Little Rock”—are coextensive with the boundaries of the State of Arkansas. The Bishop of the Diocese of Little Rock is a corporation sole who speaks for, acts on behalf of, and holds title to property of the Diocese in his name as corporation sole. *City of Little Rock v. Linn*, 245 Ark. 260, 271; 432 S.W.2d 455 (1968).

2. The Diocese of Little Rock is a nonpartisan, not-for-profit, charitable organization that encompasses the Catholic Church in Arkansas. In addition to ministering to Arkansas’s Catholic population and providing charitable services to

the poor and needy, regardless of religious affiliation, the Diocese also advocates for sound public policies in federal, state, and administrative forums in accordance with traditional faith-based principles. The Diocese has advocated for issues that span the political spectrum. For example, the Diocese has lobbied for comprehensive immigration reform and the rights of migrants in Arkansas, and against the death penalty—while simultaneously lobbying for the protection of the unborn and freedom of religion.

3. As this Court knows, the Catholic Church has been at the forefront of the legal, political, and moral debates regarding the definition of marriage. Indeed, the Catholic Church—through individual dioceses, groupings of dioceses, and the United States Conference of Catholic Bishops—has been granted leave to file *amici curiae* briefs in numerous other cases in which the same or very similar issues have been in question. *See, e.g.*, Brief for United States Conference of Catholic Bishops as *Amicus Curiae* Supporting Petitioners, *Hollingsworth v. Perry*, No. 12-144, 133 S. Ct. 2652 (2013); Brief for United States Conference of Catholic Bishops as *Amicus Curiae* Supporting Respondent, *United States v. Windsor*, No. 12-307, 133 S. Ct. 2675 (2013); Brief of United States Conference of Catholic Bishops et al. as *Amici Curiae* Supporting Appellants, *Kitchen v. Herbert*, 755 F.3d 1193 (10th Cir. June 25, 2014); Brief for Virginia Catholic Conference, LLC, et al. as *Amici Curiae* Supporting Appellants, *Bostic v. Schaefer*, Nos. 14-1167, 14-

1169, 14-1173, --- F.3d ---, 2014 WL 3702493 (4th Cir. July 28, 2014); Brief of United States Conference of Catholic Bishops et al. as *Amici Curiae* Supporting Appellants, *Massachusetts v. United States Department of Health and Human Services*, 682 F.3d 1 (1st Cir. 2012); Brief for United States Conference of Catholic Bishops et al. as *Amici Curiae* Supporting Appellees, *Sevcik v. Sandoval*, 911 F. Supp. 2d 996 (D. Nev. 2012), *appeal docketed*, No. 12-17668 (9th Cir. Dec. 3, 2012); Brief for Michigan Catholic Conference as *Amicus Curiae* Supporting Appellants, *DeBoer v. Snyder*, 973 F. Supp. 2d 757 (E.D. Mich. 2014), *appeal docketed*, No. 14-1341 (6th Cir. Mar. 22, 2014) (Doc. #65).

**REASONS WHY AN *AMICUS* BRIEF IS DESIREABLE AND
WHY THE MATTERS ASSERTED ARE RELEVANT TO THIS CASE**

4. Proposed *amicus curiae* respectfully submits that an *amicus* brief from the Diocese of Little Rock is both necessary and beneficial to this Court. The Diocese brings a perspective on the legal issues involved that is distinct from that of Appellant. Its proffered brief reviews basic religious and ethical principles that have informed the development of our legal system. The federal and state governments may enact laws reflecting traditionalist values without adopting as laws the views of any particular religion. It is difficult to recall any significant legal reform in our nation's history that has not been influenced by religious and moral viewpoints. For example, the movements that led to the abolition of slavery

and the subsequent adoption of civil rights laws were strongly influenced by religious beliefs.

5. The Diocese is uniquely situated to address several issues of importance to this appeal, including the promotion and defense of marriage, the protection of the First Amendment rights of religious organizations and their adherents, and the proper development of the nation's jurisprudence on these matters. The Diocese will also challenge the trial court's assumption that the disallowance of same-sex marriage is rooted in animus toward homosexuality driven by a particular faith tradition. The suggestion that any opposition to the redefinition of marriage arises from animus against those who experience same-sex attraction is offensive and wrong. In the eyes of the Diocese and the entire Catholic Church, each and every human person, regardless of sexual orientation, has a dignity and worth that derives from his or her Creator. The Diocese's support for the established meaning of marriage arises from an affirmative view of the family and not from animosity toward anyone. While the Diocese does not argue that civil marriage should be controlled by religious beliefs, there is no doubt that a multitude of faith traditions have shaped public policy in our state and our nation. The Appellants are necessarily limited in their ability to address these faith-related erroneous assumptions by the trial court. The proffered *Amicus* Brief supplies this perspective.

AMICUS PARTICIPATION IN APPELLATE PROCEEDINGS


6. Pursuant to Rule 4-6 of the Rules of the Supreme Court and the Court of Appeals of Arkansas, proposed *amicus curiae* respectfully requests permission to appear in this action to provide its perspective regarding the potential implications of the Court's ruling in this case. Proposed *amicus curiae* does not seek to enlarge the issues beyond those raised by the pleadings of the parties and the judgment of the trial court.

7. Proposed *amicus curiae* submits its proposed *Amicus* Brief, which is supportive of Appellants' position, contemporaneously with the filing of this Motion.

WHEREFORE, proposed *amicus curiae* respectfully requests that this Court grant its Motion for Leave to File an *Amicus* Brief in Support of the Appellants, and prays for all other relief that is just and appropriate.

Respectfully submitted,

ANTHONY B. TAYLOR,
BISHOP OF THE ROMAN CATHOLIC DIOCESE
OF LITTLE ROCK

By: 
MATTHEW A. GLOVER (Bar #2008196)
Vice Chancellor for Canonical Affairs
Catholic Diocese of Little Rock
2500 North Tyler Street
Little Rock, Arkansas 72207
Phone: (501) 664-0340
Facsimile: (501) 664-5835

Email: mglover@dolr.org

DAVID F. MENZ (Bar #74108)
Williams & Anderson, PLC
111 Center Street, Suite 2200
Little Rock, Arkansas 72201
Direct: (501) 396-8416
Facsimile: (501) 396-8516
Email: dmenez@williamsanderson.com

*Attorneys for Amicus Curiae Anthony B.
Taylor, Bishop of the Roman Catholic Diocese
of Little Rock*

CERTIFICATE OF SERVICE

I, David F. Menz, do hereby certify that on this 15th day of September, 2014, a true and correct copy of the foregoing document was served via email attachment upon:

Colin R. Jorgensen (Bar # 2004078)
Assistant Attorney General
323 Center Street, Suite 200
Little Rock, AR 72201
Phone: (501) 682-3997
Fax: (501) 682-2591
Email: colin.jorgensen@arkansasag.gov
Attorney for State Defendants/Appellants

David Mack Fuqua (Bar #80048)
Fuqua Campbell, P.A.
425 West Capitol, Suite 300
Little Rock, AR 72201
Phone: (501) 374-0200
Email: dfuqua@fc-lawyers.com
Attorney for Separate Defendants, Dough Curtis, in his official capacity as Saline County Clerk, and Larry Crane, in his official capacity as Pulaski County Circuit Clerk

Michael R. Rainwater (Bar #79234)
Jason E. Owens (Bar #2003003)
Rainwater, Holt & Sexton, P.A.
P.O. Box 17250
6315 Ranch Dr.
Little Rock, AR 72222-7250
Phone: (501) 868-2500
Fax: (501) 868-2505
Email: owens@rainfirm.com
Attorneys for Separate Defendants Cheryl Evans, in her official capacity as White County Clerk, William "Larry" Clark, in his official capacity as Lonoke County Clerk, Debbie Hartman, in her official capacity as Conway County Clerk, and Becky Lewallen, in her official capacity as Washington County Clerk.

Jack Wagoner III (Bar #89096)
Angela Mann (Bar #2011225)
Wagoner Law Firm, P.A.
1320 Brookwood, Suites D&E
Little Rock, AR 72202
Phone: (501) 663-5225
Fax: (501) 660-4030
Email: jack@wagonerlawfirm.com
Email: angela@wagonerlawfirm.com

AND

Cheryl K. Maples (Bar #87109)
P.O. Box 1504
Searcy, AR 72145
Phone: (501) 912-3890
Fax: (501) 362-2128
Email: ckmaples@aol.com

Attorneys for Plaintiffs/Appellees




DAVID F. MENZ (Bar #74108)
Williams & Anderson, PLC
111 Center Street, Suite 2200
Little Rock, Arkansas 72201
Direct: (501) 396-8416
Facsimile: (501) 396-8516
Email: dmenz@williamsanderson.com

Attorneys for Amicus Curiae

CERTIFICATE OF COMPLIANCE

I, David F. Menz, do hereby certify that I have submitted and served on opposing counsel an unredacted PDF document that complies with the Rules of the Supreme Court and the Court of Appeals of Arkansas. The PDF document is identical to the corresponding parts of the paper document from which it was created as filed with the Court. To the best of my knowledge, information, and belief formed after scanning the PDF document for viruses with an antivirus program, the PDF document is free from computer viruses. A copy of this certificate has been submitted with the paper copies filed with the Court and has been served on all parties.



DAVID F. MENZ (Bar #74108)
Williams & Anderson, PLC
111 Center Street, Suite 2200
Little Rock, Arkansas 72201
Direct: (501) 396-8416
Facsimile: (501) 396-8516
Email: dmenz@williamsanderson.com

Attorneys for Amicus Curiae