

ORIGINAL

IN THE SUPREME COURT OF OHIO

<b>Jennifer McKettrick</b>	}	Supreme Court Case No. 15-0440
	}	
Plaintiff/Appellant,	}	
	}	
vs.	}	
	}	
<b>Cheryl McKettrick</b>	}	
	}	
Defendant/Appellee.	}	
	}	

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APPEAL FROM THE TWELFTH DISTRICT COURT OF APPEALS  
WARREN COUNTY, OHIO

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APPELLEE, CHERYL MCKETTRICK'S MEMORANDUM IN RESPONSE

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**Table of Contents**

**I. Statement of Appellee’s Position.....3**

**II. Statement of the Case and Facts.....3**

**III. Argument in Support of Appellee’s Position regarding Appellant’s  
Sole Proposition of Law.....4**

**IV. Conclusion.....4**

**Certificate of Service.....5**

### **Statement of Appellee's Position**

The Appellant argues that this case is about marriage equality in Ohio and therefore is of great public interest and that a constitutional issue is involved. This case is not about marriage equality in Ohio, no constitutional issue is involved and no issue of interest to the public is involved. This case is solely about whether the symbolic marriage of Ohio residents in Massachusetts in 2006 based upon a falsely obtained marriage license was void under Massachusetts Law in 2006.

### **Statement of the Case and Facts**

In 2006 Massachusetts allowed non-residents to be validly married in Massachusetts only if they were able to obtain a marriage license in their state of residence. Any attempted marriage by non-residents who could not be married in their state of residence was void and of no effect. The following Massachusetts Law was in place:

“No marriage shall be contracted in this commonwealth by a party residing and intending to continue to reside in another jurisdiction if such marriage would be void if contracted in such other jurisdiction, and every marriage contracted in this commonwealth in violation hereof shall be null and void” (G.L.c. 207§.11)

There are no factual disputes in this case. In 2006 the parties were Ohio residents who could not obtain a marriage license in Ohio. Whether Ohio achieves marriage equality or not that fact is a fact and will not change. In 2006 under Massachusetts law the marriage license was obtained by the parties falsely listing a Massachusetts address as their residence. It was not. In order to obtain the license they also falsely represented that no impediment to their marriage existed at that time in Ohio. It did.

Indeed as observed by the trial court the law in Massachusetts changed in 2008 and the parties could have then obtained a license and entered into a valid Massachusetts marriage. They did not.

### **Argument**

The Appellant argues this case as if she had entered into a valid marriage in 2006 and now wants Ohio to recognize that marriage so she can obtain a divorce. She ignores the fact the no valid marriage occurred in Massachusetts in 2006. Getting a divorce requires the prerequisite of a valid marriage.

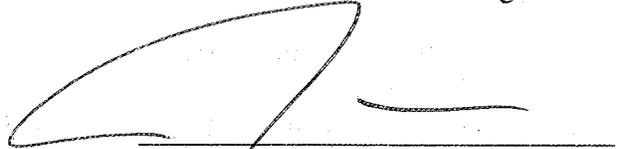
The determination of whether a valid marriage occurred is an analysis that requires the application of the law of the state which issued the license at the time of the marriage as observed by the court of appeals in its opinion. Had these parties revealed their true residence or the impediment to their marriage that existed in their state of residence, no license would have been issued and no marriage ceremony could have occurred. Neither the 2008 change in Massachusetts Law nor a finding of marriage equality in Ohio in 2015 will change the fact that the symbolic marriage of 2006 was void under Massachusetts law in 2006 and continues to be void . The proposition of law advanced by the Appellant is not an issue properly before this court as the parties never entered into a valid marriage under Massachusetts Law and as a single person the Appellant has no standing to advance the proposition of law she proposes.

### **Conclusion**

Under Massachusetts law that existed in 2006 these parties were unable to obtain a valid marriage license or be married in that state. Their symbolic marriage was void and

of no legal effect. Given the parties are not married the issue of marriage equality in Ohio is not an issue to be decided in this case.

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**Certificate of Service**

I hereby certify that a true copy of the foregoing has been served upon Mr. Michael J. Davis, Attorney for Appellant at 8567 Mason Montgomery Road, P.O. Box 1025 Mason, Ohio 45040 by regular U.S. mail and by electronic transmission to [mjdlaw@roadrunner.com](mailto:mjdlaw@roadrunner.com) this 22<sup>nd</sup> day of April, 2015



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