

Commonwealth of Pennsylvania, Department of Health, Petitioner v. D. Bruce Hanes, in his capacity as the Clerk of the Orphans' Court of Montgomery County, Respondent

379 MD 2013 | Pennsylvania State, Supreme Court

Filed July 30, 2013

Case Type Mandamus, Writ of

Status Closed

Last Updated: 1 year, 8 months ago

Filing Date

Docket Text

12/16/2015	Notice of Discontinuance Supreme Court of Pennsylvania Document Name:77 MAP 2013 Comment:Joint app to discontinue appeal is granted. Motion to present oral argument is dismissed as moot. Document Name:77 MAP 2013 Comment:Joint app to discontinue appeal is granted. Motion to present oral argument is dismissed as moot.
10/22/2013	Certificate of Service Filed Commonwealth Court Filing Office Document Name:List of documents forwarded to counsel & all unrepresented parties pursuant to Pa. R.A.P. 1931(d). Document Name:List of documents forwarded to counsel & all unrepresented parties pursuant to Pa. R.A.P. 1931(d).
10/17/2013	Order Granting Application for Relief Pellegrini, Dan shall Document Name:upon consideration of Petitioner's Application to Vacate Supersedeas, Comment:it is hereby Ordered that said Application is granted. The Order of this Court entered September 12, 2013, remain in full force and effect notwithstanding Respondent's appeal thereof to the Supreme Court of Pennsylvania docketed at No. 77 MAP 2013. Document Name:upon consideration of Petitioner's Application to Vacate Supersedeas, Comment:it is hereby Ordered that said Application is granted. The Order of this Court entered September 12, 2013, remain in full force and effect notwithstanding Respondent's appeal thereof to the Supreme Court of Pennsylvania docketed at No. 77 MAP 2013.
10/15/2013	Answer and New Matter Clarke, Michael P. Stein, Joshua Marc Respondent Respondent Hanes, D. Bruce Hanes, D. Bruce Document Name:Respondent's answer and new matter in opposition to Pet.s' application to vacate automatic Comment:supersedeas Document Name:Respondent's answer and new matter in opposition to Pet.s' application to vacate automatic Comment:supersedeas

Filing Date

Docket Text

10/10/2013	Order Filed Per Curiam Document Name:Upon review of petitioner's "Application to Vacate Supersedeas", respondent shall file an answer Comment:to the Application no later than 10-15-2013. Document Name:Upon review of petitioner's "Application to Vacate Supersedeas", respondent shall file an answer Comment:to the Application no later than 10-15-2013.
10/9/2013	Application for Relief Miner, Audrey F. Taylor, Alison Petitioner Petitioner Department of Health Department of Health Document Name:Petitioner's Application to Vacate Automatic Supersedeas Document Name:Petitioner's Application to Vacate Automatic Supersedeas
10/1/2013	Hanes, D. Bruce Respondent Document Name:77 MAP 2013 Comment:Record forwarded to Middle District on 10/22/2013. Notice of Appeal to PA Supreme Court Filed Document Name:77 MAP 2013 Comment:Record forwarded to Middle District on 10/22/2013. Notice of Appeal to PA Supreme Court Filed
10/1/2013	Order Filed Pellegrini, Dan filed 9-12-2013, in Document Name:Opinion (36 Pages) Comment:The opinion Memorandum Opinion, and it shall be reported. the above-captioned matter shall be designated Opinion rather than Document Name:Opinion (36 Pages) Comment:The opinion Memorandum Opinion, and it shall be reported. the above-captioned matter shall be designated Opinion rather than
9/23/2013	Amended Pellegrini, Dan Document Name:The Opinion in support of this court's order of 9-12-13 is amended. See order and opinion filed. Document Name:The Opinion in support of this court's order of 9-12-13 is amended. See order and opinion filed.

Filing Date

Docket Text

9/12/2013	<p>Summary Relief Granted Pellegrini, Dan as moot.</p> <p>Document Name:Opinion (35 pages) Comment:The Dept. of Health's Amended Application for Summary Relief for peremptory judgment in mandamus is granted. D. Bruce Hanes, in his official capacity as the Clerk of the Orphans' Court of Montgomery County, is directed to comply with all provisions of the Marriage Law, 23 Pa. C.S. Sections 1101-1905, while discharging the duties of his office, including the provisions of Sections 1102, 1303(a) and 1704, 23 Pa. C.S. Sections 1102, 1303(a) and 1704, and he shall cease and desist from issuing marriage licenses to same-sex applicants, from accepting the marriage certificates of same-sex couples, and from waiving the mandatory three-day waiting period in violation of the Marriage Law. The POs of D. Bruce Hanes and the Petition for Leave to Intervene Pursuant to Pa. R.A.P. 1531 filed by Putative Intervenors are dismissed</p> <p>Summary Relief Granted The Dept. of Health's Amended Application for Summary Relief for peremptory judgment in mandamus is granted. D. Bruce Hanes, in his official capacity as the Clerk of the Orphans' Court of Montgomery County, is directed to comply with all provisions of the Marriage Law, 23 Pa. C.S. Sections 1101-1905, while discharging the duties of his office, including the provisions of Sections 1102, 1303(a) and 1704, 23 Pa. C.S. Sections 1102, 1303(a) and 1704, and he shall cease and desist from issuing marriage licenses to same-sex applicants, from accepting the marriage certificates of same-sex couples, and from waiving the mandatory three-day waiting period in violation of the Marriage Law. The POs of D. Bruce Hanes and the Petition for Leave to Intervene Pursuant to Pa. R.A.P. 1531 filed by Putative Intervenors are dismissed as moot. Opinion</p> <p>Document Name:Opinion (35 pages) Comment:The Dept. of Health's Amended Application for Summary Relief for peremptory judgment in mandamus is granted. D. Bruce Hanes, in his official capacity as the Clerk of the Orphans' Court of Montgomery County, is directed to comply with all provisions of the Marriage Law, 23 Pa. C.S. Sections 1101-1905, while discharging the duties of his office, including the provisions of Sections 1102, 1303(a) and 1704, 23 Pa. C.S. Sections 1102, 1303(a) and 1704, and he shall cease and desist from issuing marriage licenses to same-sex applicants, from accepting the marriage certificates of same-sex couples, and from waiving the mandatory three-day waiting period in violation of the Marriage Law. The POs of D. Bruce Hanes and the Petition for Leave to Intervene Pursuant to Pa. R.A.P. 1531 filed by Putative Intervenors are dismissed</p> <p>Pellegrini, Dan</p>
9/3/2013	<p>Filed - Other Taylor, Alison</p> <p>Petitioner</p> <p>Department of Health</p> <p>Document Name:Petitioner's Pre-Argument Submission</p> <p>Document Name:Petitioner's Pre-Argument Submission</p>
9/3/2013	Entry of Appearance

Docket Text

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Filing Date

Docket Text

8/28/2013	<p>Order Filed Per Curiam gallery. off at all times. the media. opening of court.</p> <p>Document Name:AMENDED DECORUM ORDER Comment:after consultation with the Capitol Police and the Administrative Office of Pennsylvania Courts (AOPC), it is ORDERED and DECREED asfollows: Seating for the argument scheduled to begin on Wednesday, September 4, 2013, at 10:00 a.m., in Courtroom 5001 on the fifth floor of the Pennsylvania Judicial Center shall be limited to 155 persons in the No electronic devices may be used in the courtroom except those used by the Court and by the attorneys representing parties in this suit. No laptop computers or backpacks will be allowed in the courtroom. Cell or smart phones may be carried into the courtroom, but must be turned A media room shall be available for the use and storage of laptop computers and other electronic devices by members of the properly credentialed media. There will be judiciary personnel supervising the room, but the security of things left in the room cannot be guaranteed. No cameras will be allowed inside the Pennsylvania Judicial Center at any time during the argument. There will be no recording of the argument for playback at a later date. A podium will be available outside the Pennsylvania Judicial Center on the plaza for parties that wish to address The courtroom will be unlocked and available for seating approximately 30 minutes before the opening of court. Twenty five seats will be reserved for the properly credentialed media until 9: 55 a.m. After 9:55 a.m., any remaining reserved seats for the properly credentialed media will be released to the public. Capitol Police will begin processing members of the properly credentialed media approximately one hour before the</p> <p>Document Name:AMENDED DECORUM ORDER Comment:after consultation with the Capitol Police and the Administrative Office of Pennsylvania Courts (AOPC), it is ORDERED and DECREED asfollows: Seating for the argument scheduled to begin on Wednesday, September 4, 2013, at 10:00 a.m., in Courtroom 5001 on the fifth floor of the Pennsylvania Judicial Center shall be limited to 155 persons in the No electronic devices may be used in the courtroom except those used by the Court and by the attorneys representing parties in this suit. No laptop computers or backpacks will be allowed in the courtroom. Cell or smart phones may be carried into the courtroom, but must be turned A media room shall be available for the use and storage of laptop computers and other electronic devices by members of the properly credentialed media. There will be judiciary personnel supervising the room, but the security of things left in the room cannot be guaranteed. No cameras will be allowed inside the Pennsylvania Judicial Center at any time during the argument. There will be no recording of the argument for playback at a later date. A podium will be available outside the Pennsylvania Judicial Center on the plaza for parties that wish to address The courtroom will be unlocked and available for seating approximately 30 minutes before the opening of court. Twenty five seats will be reserved for the properly credentialed media until 9: 55 a.m. After 9:55 a.m., any remaining reserved seats for the properly credentialed media will be released to the public. Capitol Police will begin processing members of the properly credentialed media approximately one hour before the</p>
8/28/2013	<p>Answer and New Matter Miner, Audrey F. Taylor, Alison Petitioner Petitioner Department of Health Department of Health</p> <p>Document Name:Petitioner's Answer and New Matter to the Verified Petition for Leave to Intervene</p> <p>Document Name:Petitioner's Answer and New Matter to the Verified Petition for Leave to Intervene</p>
8/28/2013	<p>Petitioner's Brief Filed Department of Health Petitioner</p> <p>Document Name:Brief in Opposition to Petition to Intervene</p> <p>Document Name:Brief in Opposition to Petition to Intervene</p>

Docket Text

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Filing Date

Docket Text

8/22/2013	<p>Order Filed Per Curiam act? 3. Whether Petitioner has standing? Counsel?</p> <p>Document Name:it is hereby Ordered that the argument on September 4, 2013 in the above-captioned Comment:matter will be limited to the following issues: 1. Whether this Court lacks subject matter jurisdiction because Respondent Hanes is a Judicial Officer? 2. Whether Respondent's issuance of a marriage license is a judicial 4. If Petitioner does not have standing, what is the effect of the Attorney General's delegation of the duty to defend the constitutionality of Section 1704 of the Marriage Law, 23 Pa. C.S. §1704 to the General 5. Whether the constitutionality of the act sought to be enforced can be raised as a defense to a mandamus action?</p> <p>Document Name:it is hereby Ordered that the argument on September 4, 2013 in the above-captioned Comment:matter will be limited to the following issues: 1. Whether this Court lacks subject matter jurisdiction because Respondent Hanes is a Judicial Officer? 2. Whether Respondent's issuance of a marriage license is a judicial 4. If Petitioner does not have standing, what is the effect of the Attorney General's delegation of the duty to defend the constitutionality of Section 1704 of the Marriage Law, 23 Pa. C.S. §1704 to the General 5. Whether the constitutionality of the act sought to be enforced can be raised as a defense to a mandamus action?</p>
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Filing Date

Docket Text

8/20/2013	<p>Order Filed Per Curiam cannot be guaranteed. court. reached at (717) 255-1605.</p> <p>Document Name:Decorum Order Comment:after consultation with the Capitol Police and the Administrative Capitol Police and the Administrative ORDERED and DECREED as follows: Seating for the argument scheduled to begin on Wednesday, September 4, 2013, at 10:00 a.m. in Courtroom 5001 on the fifth floor of the Pennsylvania Judicial Center shall be limited to 155 persons in the gallery on a "first come, first seated" basis. There will be no reserved seating. No electronic devices may be used in the courtroom except those used by the Court and by the attorneys representing parties in this suit. No laptop computers or backpacks will be allowed in the courtroom. Cell or smart phones , may be carried into the courtroom, but must be turned off at all times. A media room shall be available for the use and storage of laptop computers and other electronic devices by members of the press. There will be judiciary personnel supervising the room, but the security of things left in the room No cameras will be allowed inside the Pennsylvania Judicial Center at any time during the argument There will be no recording of the argument for playback at a later date. A podium will be available outside the Pennsylvania Judicial Center on the plaza for parties that wish to address the media. The courtroom will be unlocked and available for seating approximately 30 minutes before the opening of court. Capitol Police will begin processing members of the press approximately one hour before the opening of Prothonotary Kristen W. Brown is the media liaison. She can be</p> <p>Document Name:Decorum Order Comment:after consultation with the Capitol Police and the Administrative Capitol Police and the Administrative ORDERED and DECREED as follows: Seating for the argument scheduled to begin on Wednesday, September 4, 2013, at 10:00 a.m. in Courtroom 5001 on the fifth floor of the Pennsylvania Judicial Center shall be limited to 155 persons in the gallery on a "first come, first seated" basis. There will be no reserved seating. No electronic devices may be used in the courtroom except those used by the Court and by the attorneys representing parties in this suit. No laptop computers or backpacks will be allowed in the courtroom. Cell or smart phones , may be carried into the courtroom, but must be turned off at all times. A media room shall be available for the use and storage of laptop computers and other electronic devices by members of the press. There will be judiciary personnel supervising the room, but the security of things left in the room No cameras will be allowed inside the Pennsylvania Judicial Center at any time during the argument There will be no recording of the argument for playback at a later date. A podium will be available outside the Pennsylvania Judicial Center on the plaza for parties that wish to address the media. The courtroom will be unlocked and available for seating approximately 30 minutes before the opening of court. Capitol Police will begin processing members of the press approximately one hour before the opening of Prothonotary Kristen W. Brown is the media liaison. She can be</p>
8/19/2013	<p>Preliminary Objections Forzato, Nicole R. McGarry, Raymond Stein, Joshua Marc Taylor-Smith, E. Natasha</p> <p>Respondent Respondent Respondent Respondent</p> <p>Hanes, D. Bruce Hanes, D. Bruce Hanes, D. Bruce Hanes, D. Bruce</p> <p>Document Name:Respondent's Preliminary Objections to Pet.'s Amended PFR in the nature of an action in mandamus</p> <p>Document Name:Respondent's Preliminary Objections to Pet.'s Amended PFR in the nature of an action in mandamus</p>
8/19/2013	<p>Argument Scheduled - Single Judge Per Curiam</p> <p>Document Name:argument on petitioner's amended Application for Summary Relief</p> <p>Comment:is set for September 4, 2013 at 10:00 a.m. in Courtroom 5001, Pennsylvania Judicial Center, 601 Commonwealth Ave., Harrisburg, PA 17120.</p> <p>Document Name:argument on petitioner's amended Application for Summary Relief</p> <p>Comment:is set for September 4, 2013 at 10:00 a.m. in Courtroom 5001, Pennsylvania Judicial Center, 601 Commonwealth Ave., Harrisburg, PA 17120.</p>

Docket Text

8/19/2013

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Filing Date

Docket Text

8/6/2013	<p>Order Filed Per Curiam before August 12, 2013. on an expedited basis</p> <p>Document Name:Petitioners having filed an amended Petition for Review and an amended Application for Summary Relie Comment:Relief, respondent's preliminary objections to the original Petition for Review are stricken. Upon consideration of petitioner's Application Application for Summary Relief, and in light of respondent's response to petitioner's prior Application for Expedited Consideration, the Application for Expedited Consideration is granted in part. Petition shall file a brief in support of its Amended Application for Summary relief (3 Copies) on or Respondent shall file a brief in opposition to petitioner's Application for Summary Relief (3 Copies) on or before August 19, 2013. Upon the filing of all briefs, the Court will schedule argument on petitioner's Application for Summary Relief for Expedited Consideration of Petitioner's Amended</p> <p>Document Name:Petitioners having filed an amended Petition for Review and an amended Application for Summary Relie Comment:Relief, respondent's preliminary objections to the original Petition for Review are stricken. Upon consideration of petitioner's Application Application for Summary Relief, and in light of respondent's response to petitioner's prior Application for Expedited Consideration, the Application for Expedited Consideration is granted in part. Petition shall file a brief in support of its Amended Application for Summary relief (3 Copies) on or Respondent shall file a brief in opposition to petitioner's Application for Summary Relief (3 Copies) on or before August 19, 2013. Upon the filing of all briefs, the Court will schedule argument on petitioner's Application for Summary Relief for Expedited Consideration of Petitioner's Amended</p>
8/5/2013	<p>Application to Expedite Miner, Audrey F. Taylor, Alison</p> <p>Petitioner Petitioner</p> <p>Department of Health Department of Health</p> <p>Document Name:Application for Expedited Consideration of Petitioner's Amended Application for Summary Relief in Comment:The Nature of a Peremptory Judgment in Mandamus</p> <p>Document Name:Application for Expedited Consideration of Petitioner's Amended Application for Summary Relief in Comment:The Nature of a Peremptory Judgment in Mandamus</p>
8/5/2013	<p>Amended - Petition for Review Miner, Audrey F. Taylor, Alison</p> <p>Petitioner Petitioner</p> <p>Department of Health Department of Health</p> <p>Document Name:In the Nature of An Action In Mandamus</p> <p>Document Name:In the Nature of An Action In Mandamus</p>
8/5/2013	<p>Amended Miner, Audrey F. Taylor, Alison</p> <p>Petitioner Petitioner</p> <p>Department of Health Department of Health</p> <p>Document Name:Petitioner's Amended Application For Summary Relief</p> <p>Document Name:Petitioner's Amended Application For Summary Relief</p>
8/2/2013	<p>Filed - Other Clarke, Michael P. Forzato, Nicole R. McGarry, Raymond Stein, Joshua Marc Taylor-Smith, E. Natasha</p> <p>Respondent Respondent Respondent Respondent Respondent</p> <p>Hanes, D. Bruce Hanes, D. Bruce Hanes, D. Bruce Hanes, D. Bruce Hanes, D. Bruce</p> <p>Document Name:Brief in Support of PO's</p> <p>Document Name:Brief in Support of PO's</p>

Filing Date

Docket Text

8/2/2013	Preliminary Objections Clarke, Michael P. Forzato, Nicole R. McGarry, Raymond Stein, Joshua Marc Taylor-Smith, E. Natasha Respondent Respondent Respondent Respondent Respondent Hanes, D. Bruce Hanes, D. Bruce Hanes, D. Bruce Hanes, D. Bruce Hanes, D. Bruce Document Name:Respondent's PO's to Petitioner's PFR in the Nature of an Action in Mandamus Document Name:Respondent's PO's to Petitioner's PFR in the Nature of an Action in Mandamus
8/2/2013	Answer to Application to Expedite Clarke, Michael P. Forzato, Nicole R. McGarry, Raymond Stein, Joshua Marc Taylor-Smith, E. Natasha Respondent Respondent Respondent Respondent Respondent Hanes, D. Bruce Hanes, D. Bruce Hanes, D. Bruce Hanes, D. Bruce Hanes, D. Bruce Document Name:Response to Petitioner's Application for Expedited Consideration of Petitioner's Application for Comment:Relief in the Nature of a Peremptory Judgment in Mandamus Document Name:Response to Petitioner's Application for Expedited Consideration of Petitioner's Application for Comment:Relief in the Nature of a Peremptory Judgment in Mandamus
8/2/2013	Answer Filed Forzato, Nicole R. McGarry, Raymond Stein, Joshua Marc Taylor-Smith, E. Natasha Clarke, Michael P. Respondent Respondent Respondent Respondent Respondent Hanes, D. Bruce Hanes, D. Bruce Hanes, D. Bruce Hanes, D. Bruce Hanes, D. Bruce Document Name:Respondent's Response to Petitioner's application for summary relief in the nature of a Peremptory Comment:Judgement in Mandamus Document Name:Respondent's Response to Petitioner's application for summary relief in the nature of a Peremptory Comment:Judgement in Mandamus
7/31/2013	Application for Summary Relief Miner, Audrey F. Taylor, Alison Petitioner Petitioner Department of Health Department of Health Document Name:Petitioner's Application for Summary Relief in the Nature of Premptory Judgment in Mandamus Document Name:Petitioner's Application for Summary Relief in the Nature of Premptory Judgment in Mandamus
7/31/2013	Application to Expedite Taylor, Alison Miner, Audrey F. Petitioner Petitioner Department of Health Department of Health Document Name:Application for Expedited Consideration of Pet.'s Application for Summary Relief in the Nature of A Comment:Premptory Judgment In Mandamus Document Name:Application for Expedited Consideration of Pet.'s Application for Summary Relief in the Nature of A Comment:Premptory Judgment In Mandamus
7/31/2013	Notice Exited Commonwealth Court Filing Office
7/30/2013	Petition for Writ of Mandamus Department of Health Petitioner

Docket Alarm, by Fastcase