

COMMONWEALTH OF KENTUCKY  
COURT OF JUSTICE  
FORTY-THIRD JUDICIAL CIRCUIT COURT  
(BARREN CIRCUIT COURT  
METCALFE CIRCUIT COURT)  
SECOND DIVISION  
(FAMILY COURT)

**IN RE: UNDERSIGNED JUDGE'S *SUA SPONTE* RECUSAL AND  
DISQUALIFICATION IN ADOPTION ACTIONS INVOLVING  
A HOMOSEXUAL PARTY OR PARTIES**

**GENERAL ORDER  
17 - 01**

\* \* \*

**WHEREAS**, the law, KRS 199.520 (1), in part requires that the court enter a judgment of adoption upon a finding, *inter alia*, that "... the best interest of the child will be promoted by the adoption ..."; and,

**WHEREAS**, the law, KRS 26A.015 (2), provides in part as follows:

Any ... judge of the Court of Justice ... shall disqualify himself in any proceeding:

- (a) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceedings, or has expressed an opinion concerning the merits of the proceeding;

\* \* \* \* \*

- (e) Where he has knowledge of any other circumstances in which his impartiality might reasonably be questioned.

and,

A TRUE COPY ATTEST  
THIS 27 April 2017  
Tommy A. Garrett  
METCALFE CIRCUIT CLERK  
By: RWD

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ENTERED IN MY OFFICE  
THIS 27 DAY OF April, 2017  
TOMMY A. GARRETT, CLERK  
BY Rachel Walbert oc

**WHEREAS**, the law, Canon 3 of the Kentucky Code of Judicial Conduct, in SCR 4.300 Section 3 E., provides in part as follows:

- (1) A judge shall disqualify himself ... in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:
  - (a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning the proceeding;

and,

**WHEREAS**, the undersigned judge takes notice of the decision which the United States Supreme Court rendered in *Obergefell v. Hodges*, 576 U. S. \_\_\_\_, 135 S.Ct. 2584, 192 L. Ed.2d 609 (2015)<sup>1</sup> and the decision which the Kentucky Supreme Court rendered in *Mullins v. Picklesimer*, 317 S.W.3d 569 (Ky. 2010)<sup>2</sup> and its progeny; and,

**WHEREAS**, notwithstanding the decisions cited in the preceding paragraph, the undersigned judge believes as a matter of conscience that (although adoption of a child by a practicing homosexual is not expressly prohibited by law) under no circumstance would "... the best interest of the child ... be promoted by the adoption ..." <sup>3</sup> by a practicing homosexual; and,

**WHEREAS**, the undersigned judge believes that his conscientious objection to the concept of adoption of a child by a practicing homosexual may constitute "personal bias or prejudice" or some other "circumstances in which his impartiality might reasonably be questioned" to the degree that his disqualification or recusal is ethically required in adoption actions involving a homosexual party or parties;

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<sup>1</sup>In this decision the United States Supreme Court recognized same-sex "marriage."

<sup>2</sup>In this decision the Kentucky Supreme Court reinstated a trial court judgment awarding a child's joint custody to his natural mother and to his natural mother's homosexual former "partner."

<sup>3</sup>See KRS 199.520 (1).

***NOW, THEREFORE***, on the court's own motion, *sua sponte*, ***IT IS ORDERED*** that any attorney filing in this court an initial pleading or motion in an adoption action involving a homosexual party or parties simultaneously with such filing shall notify Mrs. Julie W. Jolly, Case Manager (or any other staff member) of this court (at [270] 651-9923 or at [JulieJolly@kycourts.net](mailto:JulieJolly@kycourts.net)), concerning the filing of such initial pleading or motion so that the undersigned judge can take immediate steps on his own motion, *sua sponte*, to ***recuse*** and ***disqualify*** himself from proceedings in such action through issuance of an Order Certifying Need for Special Judge Assignment without undue delay.

***IT IS FURTHER ORDERED*** that the undersigned judge, through the staff of the Forty-Third Judicial Circuit Court, Second Division (Family Court), forthwith shall transmit electronically a copy hereof to all attorneys regularly practicing before this court, and each of such attorneys shall comply strictly herewith.

This the 27<sup>th</sup> day of April, 2017.

  
\_\_\_\_\_  
JUDGE, FORTY-THIRD JUDICIAL CIRCUIT COURT  
(BARREN AND METCALFE CIRCUIT COURT)  
SECOND DIVISION  
(FAMILY COURT)

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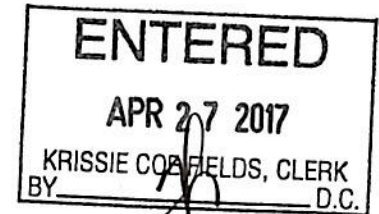
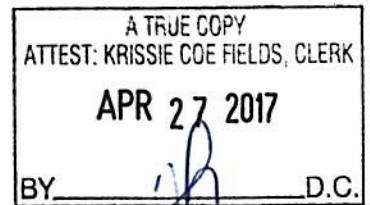
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