

The Only Silver Lining in Florida's Gay Marriage Ruling

In a highly anticipated ruling to clarify an August preliminary injunction in the federal case *Brenner v. Scott*, the district judge agreed with Liberty Counsel that the injunction does not require Florida clerks of court outside Washington County to issue marriage licenses to same-sex couples on January 6.

Indeed, the new order clarifies that the injunction is limited to the plaintiffs in the case, expressly holding, "The preliminary injunction now in effect thus does not require the [Washington County] Clerk to issue licenses to other applicants." The Washington Clerk had requested the clarification last week.

The Washington Clerk's request elicited several responses from the case parties and others, including activists who were willing to say anything to cajole Judge Hinkle into expanding the injunction statewide. "But in the sea of filings, only Liberty Counsel got it right," said Horatio Mihet, Liberty Counsel's Vice President of Legal Affairs & Chief Litigation Counsel.

Nearly all media outlets, from *The Orlando Sentinel* to , are grossly mischaracterizing the effect of the ruling, reporting the exact opposite of what Judge Hinkle's order requires.

The error is likely the result of the order's condescending lecture to clerks on why they should bow to the August injunction even though they are not bound by it. Judge Hinkle's lecture, however, has no force of law, and only invites lawlessness throughout the state.

"The duties of a Florida clerk of court are ministerial, which means they have no discretion to pick and choose which laws to

follow,” said Roger Gannam, Liberty Counsel’s Senior Litigation Counsel. “Until a court with proper jurisdiction rules otherwise, Florida clerks are bound by Florida’s marriage laws, which memorialize in its Constitution the historic, natural definition of marriage as the union of one man and one woman.”