

STATE OF NEW YORK
SUPREME COURT
ROBERT HEBEL,

ULSTER COUNTY

Petitioner,

-against-

**Decision & Judgment
Index No.:04-1915**

VILLAGE OF NEW PALTZ, JASON WEST,
in his official capacity, REBECCA ROTZLER,
in her official capacity, JULIA WALSH, in her
official capacity, and MICHAEL ZIERLER,
in his official capacity,

Respondents.

Supreme Court, Ulster County
RJI#55-04-00962
Motion Term

Present: E. Michael Kavanagh, JSC

Liberty Counsel
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Longwood, Florida 32750

Law office of Alan Lewis
Counsel for respondents Walsh and Rotzler
425 Robinson Avenue
Newburgh, New York 12550

Heller Ehrman White & McAuliffe
E. Joshua Rosenkranz Esq.
Counsel for Jason West, Village of New Paltz and Michael Zierler
120 West 45th Street
New York, New York 10036

Kavanagh, J

This is the second proceeding brought by petitioner, a member of the Village of New Paltz Board of Trustees, seeking to enjoin officials of the Village of New Paltz from solemnizing marriages of same sex couples without a marriage license being issued per

the Domestic Relations Law. In the first proceeding (Hebel I), petitioner sought to restrain the Mayor of New Paltz from continuing to perform marriages of same sex couples who did not have a marriage license. On June 7, 2003, this Court granted the petition in Hebel I and issued a permanent injunction barring the Mayor from solemnizing marriages without a duly issued marriage license.

Rebecca Rotzler, the Deputy Mayor of the Village of New Paltz, has since been appointed a marriage officer by the Village Board authorized to perform marriages. Julia Walsh, a Village Board member was also appointed a marriage officer by the Board. Thereafter, and subsequent to this Court's June 7th order, Rotzler and/or Walsh performed multiple ceremonies solemnizing marriages of same sex couples without a duly issued license and have publicly expressed their intention to continue this practice in the future.

Petitioner now seeks an order requiring respondents and all Village officers who are empowered to perform marriages to do so in compliance with the provisions of the DRL, and only after a marriage license has been issued. Respondents moved to dismiss the petition and this Court issued a Decision and Order dated September 10, 2004 and Amended Decision and Order dated October 6, 2004 which dismissed that part of the petition which sought to declare the marriages performed as invalid and to challenge the appointment of Rotzler and Walsh. The remainder of the motion was denied and the respondents were directed to file an answer to the petition. Having now done so, this represents the Court's decision in regard to the remaining claims in the petition.

For all of the same reasons set forth by this Court in Matter of Hebel v West, Supreme Court, Index No.: 04-0642, Decision and Judgment dated June 7, 2004, the petition must be granted. Petitioner is entitled to a judgment which enjoins

respondents, as well as any official designated by the Village Board as a marriage officer from performing marriages without a duly issued license.

Accordingly, it is hereby

ORDERED & ADJUDGED that respondents Rotzler and Walsh as well as any official designated by the Village Board as a marriage officer are hereby permanently enjoined from performing marriages without a duly issued marriage license by a city or town clerk.

This constitutes the Decision and Judgment of this Court. All papers are being returned to petitioner's counsel. The signing of this Decision and order shall not constitute entry or filing. Counsel is not relieved from the provisions of that rule regarding entry, filing and notice of entry.

SO ORDERED!



E. Michael Kavanagh, JSC

Dated: November ~~30~~ 30, 2004
Kingston, New York

Papers Considered:

Order to show cause; Verified petition
verified answer of Respondents West Zierler and the Village of New Paltz
Verified Answer of Rotzler and Walsh

Memorandums of law considered but not filed and returned to counsel:

Memorandum of Law of Respondents West, Zierler and the Village of New Paltz
Memorandum of Law of Respondents Rotzler and Walsh