UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

KEN MAYLE,

Plaintiff,

vs.

THE STATE OF ILLINOIS

And

DIRECTOR NIRAV D. SHAH, M.D.,

In His Official Capacity as Director of Illinois Department of Public Health.

Defendants.

INTRODUCTION

Plaintiff is a Satanist who has been irreparably harmed by the State of Illinois, which criminalizes bigamy, adultery, and fornication. These laws prevent Plaintiff from marrying more than one person, or participating in sex magick rituals consonant with his religion because of the moral shaming projected by these laws. These laws criminalize polyamorous relationships. These laws criminalize private consensual, sexual rituals done in a religious context. These laws ostracize, condemn and make moral judgment against a religious minority for their personal religious beliefs and practices. Plaintiff now files this action, alleging these laws are unconstitutional in six ways: due process and equal protection under the Fourteenth Amendment, and free exercise of religion, free speech, freedom of association, and anti-establishment of religion under the First Amendment. He sues for an injunction declaring the three laws unconstitutional, bringing this lawsuit under 42 U.S.C. 1983.

I. PARTIES

1. Plaintiff Ken Mayle is a resident of Chicago, Illinois. He follows the religion of Satanism and is influenced by Aleister Crowley, the Prophet of Thelema.

2. Defendant State of Illinois, through the Executive, is responsible for enforcing and interpreting state laws. Through information and belief, Defendant Illinois directs its employees and officers, including Defendant Shah, to make policy regarding marriage, health, and the welfare of citizens of Illinois. Upon information and belief, Defendant is responsible for denying marriage licenses to more than two people at the same time.

3. Defendant State of Illinois, through the Executive, is responsible for enforcing and interpreting state laws. Through information and belief, Defendant Illinois directs its employees and officers, including Defendant Shah, to make policy regarding marriage, health, and the welfare of citizens of Illinois. Upon information and belief, Defendant is responsible for denying marriage licenses to more than two people at the same time.

4. Director Nirav D. Shah, M.D., in his official capacity as Director of Illinois Department of Public Health, has an office in Springfield, Illinois and in Chicago, Illinois. The Director of IDPH is responsible for protecting the health and welfare of citizens of Illinois. The IDPH maintains statistics, vital records and other data regarding marriage, divorce and children. The IDPH implements State policy on issues of health relating to Illinois' families, including determining what fields are included on the State's official marriage license, which is presumably a computer-generated form and system.

II. JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this case under: 28 U.S.C. § 1331 (federal question) because this action arises under the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. Sec. 1983, an Act of Congress; 28 U.S.C. § 1343(a)(3) because this action is brought to redress deprivations, under color of state law, of rights, privileges, and immunities secured by the United States Constitution; and 28 U.S.C. Sec. 1343(a)(4) because this action seeks equitable relief under 42 U.S.C. § 1983, an Act of Congress.

6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because all of the Defendants reside within this district and within the State of Illinois, and because all of the events giving rise to the claim occurred in this district.

III. FACTUAL BACKGROUND

A. Plaintiff's Religious Beliefs

7. Plaintiff follows religious, spiritual, and philosophical teachings that are in conflict with Christianity, the majority religion in America.

8. Plaintiff follows Satanism, a religion that has been recognized in American courts as a religion entitled to the protection of the First Amendment.

9. Satanism's precepts including living according to one's natural instincts and pursuing rational self-interest. One fundamental tenets Satanists share one way or another is that "One's body is inviolable, subject to one's own will alone." Another fundamental tenet is that "our beliefs should conform to our best scientific understanding of the world, and people should take care to never distort scientific facts to suit our beliefs." Laws which purport to

make consensual sex acts or social arrangements illegal violate these religious beliefs. Satanic rituals also include acts related to Compassion, Lust, and Destruction.

10. Adherents of Satanism accept all forms of human sexual expression between consenting adults and do not limit marriages to two individuals if they are interested in having more than one partner. The body is inviolable, which means the government cannot tell Plaintiff what to do with it.

11. Satanists use sex magick religious rituals influenced by many different sources, including Aleister Crowley, the man and Prophet of Thelema. The Law of Thelema is a philosophical, mystical and religious system elaborated by Crowley. Thelemic beliefs are based upon the Law of Thelema, "Do what thou wilt shall be the whole of the law. Love is the law, love under will." Thelemites are dedicated to seeking their true path in this life, known as their True Will. Embracing Thelema includes freeing oneself from the restrictions of majority society. These rituals and Law of Thelema are similar as core beliefs and rituals in Satanism. In fact, in practice many Satanists do prescribe to Crowley's "Do what thou wilt…".

12. Crowley believed that each person has a right to satisfy their own sexual instincts. However, sex in his view is sacramental. He wrote that "One should not eat as the brutes, but in order to enable one to do one's will. The same applies to sex. We must use every faculty to further the one object of our existence." Crowley's theories support the Satanist ritual dedication to the sanctity of the human body and its determination to explore the nature of reality through experience.

13. Crowley's convictions about a person's Will are certainly applicable to Plaintiff as a Satanist. Plaintiff practices sex magick religious rites that are part of Western

esoteric traditions. For example, several religious communities believe in "eroto-comatose" lucidity, a sexual practice that uses repeated sexual stimulation to arouse a person into a state of exhaustion between being awake and asleep. It involves delayed orgasm and an energy transfer between the parties involved. Although Crowley did not originate the rite, he documented it extensively. This practice is present also in all forms of Satanism including but not limited to LeVeyans.

14. However, under the laws of the State of Illinois, when Plaintiff engages in sex magick in accord with his faith, he is in violation of laws against "open and notorious" fornication and adultery.

15. Plaintiff is a resident of Illinois who intends to marry more than one person. Plaintiff's beliefs about relationships and intimacy also does not preclude adultery.

16. Plaintiff has a history of having sexual relationships outside of marriage. During 2015, when he first sought a marriage license, he also had adulterous affairs with people he met online. Websites like Fetlife and OKCupid facilitate these activities, which are illegal in Illinois, by providing a forum where people can openly seek sexual partners regardless of whether they are already married. Plaintiff often has adulterous relations. Plaintiff has also had sexual experiences with unmarried persons that could still be considered "fornication" under Illinois law because of their open and notorious nature.

17. Plaintiff intends to continue performing sexual Satanic religious rites with other people regardless of whether they are married or not.

18. Some of these Satanic rites may include having sex in front of other people, or with more than one person. Plaintiff does not hide his intimate, sexual relationships or keep their expression a secret.

B. Illinois' Unconstitutional Laws

Bigamy

19. Although there is no law against polygamy per se, Illinois criminalizes bigamy. Illinois State law makes bigamy a felony offense:

> (a) Bigamy. A person commits bigamy when that person has a husband or wife and *subsequently* knowingly marries another.
>
> (a-5) Marrying a bigamist. An unmarried person commits marrying a bigamist when that person knowingly marries another under circumstances known to him or her which would render the other person guilty of bigamy under the laws of this State.
>
> 720 ILCS 5/11-45.

Emphasis added.

20. The Illinois statute is modeled on the federal Morrell Anti-Bigamy Act, approved in 1862. The Act prohibited a person who had a living spouse from marrying another person. See *Statutes at Large, 37th Congress, 2nd Session*, p.50. The law barred sequential plural marriage. Sequential plural marriage happens when a person marries one spouse, and later marries a subsequent spouse without first obtaining a divorce.

21. The Illinois statute says a person is only guilty of bigamy if the person "subsequently" marries another. The statute is silent about multiple marriages which happen at the same time, which are in essence parallel or "concurrent" plural marriages.

22. The marriage license form generated by the Illinois Department of Health and its computer systems, which are created at the direction of Defendant, actively and intentionally omits one from performing a concurrent plural marriage between more than two people.

23. A concurrent plural marriage does not meet the definition of bigamy, which is explicitly sequential. For example, if Plaintiff was married to one person ("Jane Doe"), then later married to another person ("John Doe"), without divorcing the first person, this is an example of sequential bigamy because one marriage happens, and then later, there is a second marriage.

24. However, if Plaintiff married John Doe and Jane Doe at the same time, and all three consider themselves married to each other, this is a concurrent plural marriage, and not clearly illegal under the Illinois bigamy law.

25. Under the Illinois statute as it is written, a person cannot be prosecuted for bigamy until the second, subsequent marriage is formalized. Nevertheless, Illinois authorities consider the bigamy law to prohibit even concurrent plural marriages. Plaintiff considers this interpretation incorrect and unconstitutional.

Adultery

26. Illinois Criminal Code Sec. 11-35 prohibits adultery:

> (a) A person commits adultery when he or she has sexual intercourse with another not his or her spouse, if the behavior is open and notorious, and
> (1) The person is married and knows the other person involved in such intercourse is not his spouse; or
> (2) The person is not married and knows that the other person involved in such intercourse is married.

27. Plaintiff is subject to criminal sanctions if he marries more than one partner or if he "commits adultery" by maintaining a sexual relationship with more than one person while he is married, if that relationship is "open and notorious."

28. The anti-adultery statute has been enforced by Illinois as recently as 1997, when an auto mechanic arrived home to find his wife engaged in sexual relations with her lover. Police

charged the woman and her lover with adultery.[1] (See "Alleged Tryst Revives Rare Adultery Law," Chicago Tribune, July 11, 1997.)

29. Police defended the prosecution by suggesting that charging the couple with a crime prevented the husband from committing a crime. "It's lucky the situation wasn't worse. (The husband) could have went off and done something crazy." *Id.* Police reacted to a telephone call from the jilted husband. Police were willing to weaponize the law on his behalf. Plaintiff reasonably fears that if he is engaged in sexual relationship with a married person, the law will be weaponized against him also.

30. Although Illinois is as of 2016 a "no fault" divorce state, the fact that the law remains in effect gives spouses a legal maneuver to use against their soon-to-be or former spouse. Indeed, even the Seventh Circuit Court of Appeals has acknowledged that adultery remains a crime under state law. *Epstein v. Epstein*, No. 15-2076 (7th Cir. 2016). The case involved Paula Epstein, who filed for divorce from her husband, Barry after 41 years. Unbeknownst to Barry, Paula had all of his emails blind-copied to her email account so that she could prove adultery during their divorce proceedings. Barry's emails were to his lovers, the women he had affairs with. Barry sued Paula for violations of the Wiretapping and Electronic Surveillance Act. However, as Judge Posner pointed out, these emails were proof of Barry's criminality. Posner wrote that he saw no reason that Barry should be permitted to sue his wife, given the fact that "adultery remains a crime in 20 of 50 states – including Illinois – though it is a crime that is very rarely prosecuted. We might compare Mrs. Epstein to a bounty hunter — a private person who promotes a governmental interest. She has uncovered

[1] http://articles.chicagotribune.com/1997-07-11/news/9707110143_1_adultery-attorney-public-defender

criminal conduct hurtful to herself, and deserves compensation, such as a more generous settlement in her divorce proceeding." *Id.* Posner said Barry's lawsuit was "more than a waste of judicial resources: it is a suit seeking a reward for concealing criminal activity."

31. The Ninth Circuit ruled on February 9, 2018, that sex is a constitutional right such that the state cannot fire an employee for private sexual conduct. *Perez v. City of Roseville*, Case No. 15-16430. That case involved a police officer who was fired in part for having an adulterous affair, which the police department disapproved of. The Tenth and Fifth Circuit appear to disagree, which suggests that this issue is ripe for review by other Circuits, including the Seventh.

32. Adultery in Illinois is a crime that is punishable for up to one year in prison.

33. Plaintiff has been involved in adulterous sexual relationships, both knowingly and unknowingly. He will continue to practice Satanic sex magick religious rites with willing partners, who may be married or unmarried.

Fornication

34. A person commits unlawful fornication if:

> he or she knowingly has sexual intercourse with another not his or her spouse if the behavior is open and notorious.
>
> Ill. Ch. 38, Sec. 11-40

35. Fornication is a Class B misdemeanor.

36. Plaintiff has had sexual relationships which would be considered fornication under the statute. He has posted photographs and videos of sexual activity on the website Fetlife, which demonstrates the open and notorious aspects of his activities and rituals. He has also participated in Satanic sex magick rituals with multiple people (some concurrently) during festivals such as Burning Man. These events are often held in public, and not in

secrecy, making them both open and in the eyes of the State, notorious. Some of the sex magick rituals at Burning Man were held in "The Orgy Dome" in rooms where multiple groups and couples concurrently performed sex acts simultaneously with others.

37. The law was interpreted in *People v. Cessna*, 42 Ill. App. 3d 746, 750, 1 Ill. Dec. 433, 356 N.E.2d 621 (5th Dist. 1976), where the court of appeals held that the conduct was not sufficiently "open and notorious" to subject the couple to prosecution: "The prohibition of open and notorious adultery is meant to protect the public from conduct which disturbs the peace, tends to promote breaches of the peace, and openly flouts accepted standards of morality in the community. What is of marked interest is the scandalous effect of the behavior and its affront to public decency and the marital institution." The court's decision did little to explain when a person's conduct is a scandal or affront to decency, and leaves people like Plaintiff who practice religions which are misunderstood and publicly scorned, in a vulnerable position.

38. The *Cessna* court bases its decision on the concept of "morality in the community." Since *Cessna* was decided, the U.S. Supreme Court has reversed prior rulings which stated that morality was a sufficient justification for laws which invaded a person's Constitutional right to privacy, as expressed in private sexual acts, including abortion (*Roe v. Wade*, 410 U.S. 113), contraception *Griswold v. Connecticut*, 381 U.S. 479 (1965), sodomy (*Lawrence v. Texas,* 539 U.S. 558, 562 (2003)) and gay marriage (*Obergefell v. Hodges,* 576 U.S. ___ (2015)).

39. State laws criminalizing sex toys have also challenged public morality as a sufficient justification for criminal laws. In *Reliable Consultants Inc. v. Earle*, the Fifth Circuit Court of Appeals overturned the Texas ban on the sale of sex toys, holding that

> Just as in *Lawrence*, the State here wants to use its laws to enforce a public moral code by restricting private intimate conduct. The case is not about public sex. It is not about controlling commerce in sex. It is about controlling what people do in the privacy of their own homes because the State is morally opposed to a certain type of consensual private intimate conduct. This is an insufficient justification for the statute after Lawrence. *Reliable Consultants Inc. v. Earle*, 517 F.3d 738, 746 (5th Cir. 2008)

40. In addition to being an attack on Plaintiff First Amendment right to sexual privacy, the Illinois anti-fornication law also attacks Plaintiff's First Amendment right to Freedom of Religion. According to the Supreme Court, when a law substantially burdens a person's religion, the Free Exercise clause of the First Amendment requires that the government demonstrate that its law promotes both a *compelling* state interest and that the law in question is *narrowly tailored* to address the state interests. *Sherbert v. Verner*, 374 U.S. 398 (1963). Illinois cannot show a compelling state interest in prohibiting fornication.

41. Although one recent federal court[2], citing *Cessna*, characterized the Illinois law as having fallen into disuse, the law was used viciously against a woman just four years later. In *Jarrett v. Jarrett*, cert. den. 449 U.S. 927 (1980), the Supreme Court refused to review an Illinois Supreme Court decision which left in place a custody order removing children from their mother's custody because she announced her intention to cohabitate with a man with whom she was not married. The father sued for custody despite no showing of appreciable harm to the children.

42. The Illinois Supreme Court ruled that the state's anti-fornication statute, which prohibits non-marital sex, was justification for the custody order, entitling the father to a conclusive presumption that violation of the anti-fornication statute meant the mother was unfit.

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[2] The U.S. District Court for Northern Illinois, Judge St. Eve presiding.

43. Justice Brennan and Justice Marshall filed a vigorous dissent to the denial of certification, arguing among other things that the Court should accept the case to "address the constitutional question it so clearly presents because the answer to that question has important implications for many households. The 1978 Census Bureau Statistics cited by the Illinois Supreme Court reveal that there are 1.1 million households composed of an unmarried man and woman and that upwards of 25% of those households also include at least one child. *Id.,* at 345, 36 Ill.Dec., at 4, 400 N.E.2d, at 424. While the statistics do not reveal how many of these households were formed after a divorce, and with respect to which the noncustodial divorced parent may be able to seek custody, the crude figures alone suggest that the custodial pattern is a pervasive one." *Id.* at 932.
44. Although Illinois was the first state to eliminate its anti-sodomy law (1962), it has yet to repeal its anti-fornication law, despite the warning from the Supreme Court in *Jarrett.*
45. *Jarrett* is significant because the State argued that the presence and well-being of children is somehow promoted through its anti-fornication law. This is pseudo-science. Similar claims are frequently made by state governments to justify its attacks on sexual freedom.
46. It is also significant that in both *Jarrett* and *Cessna*, the State has used these laws chiefly to persecute women for acting outside of traditional gender norms which are largely established and enforced by the Christian majority.
47. The use of children in this matter is dubious, as the *Jarrett* dissent suggests.
48. Moreover, Plaintiff does not want children. This is particularly important given the long history of persecution of Satanists. The American public frequently invents connections between Satanism, ritual sex and children that have in fact *never* existed. For example,

during the day-care sex-abuse hysteria of the 1980's and 1990's, prosecutors around the nation dreamed up a conspiracy of pedophilic Satanic cult activity.

49. Prosecutors concocted a case against day care owners Fran and Dan Keller, who were convicted of ritualistic sexual abuse of children in their care, ostensibly motivated by Satanic beliefs. The so-called "Oak Hill" Satanic case relied on "expert" testimony about Satanic rituals that turned out to be fabricated. The couple were sentenced to 48 years in prison. They served 21 years before being freed in 2013 after their convictions were thrown out after it was revealed that the prosecution withheld evidence. Four years later, the prosecution was forced to admit the charges had no merit, and all other charges were dismissed.

50. Shamefully, licensed medical professionals continue this type of attack against Satanists. The International Society for the Study of Trauma and Dissociation (ISSTD) continues to push discredited therapy methods and conspiracy theories, explicitly targeting Satanists with bogus claims of Satanic ritual abuse. The ISSTD, which influences law enforcement and the legal community, pushes pseudoscience and promotes the idea that dissociative identity disorder (DID) / multiple personality disorder (MPD) is intentionally caused by intentional, trauma-based mind-control programming by people they deem cultists. Satanists are the ISSTD's number one target. The ISSTD's bogus claims about "repressed trauma" and use of Recovered Memory Therapies have proved incredibly damaging to people like the Kellers.

51. The Keller Trial was a precursor to the fake news hysteria known as "Pizzagate" which transfixed America in 2017. During Pizzagate, political social media accounts spread a conspiracy-theory that there was a Satanic cult which abused children, and that the cult

held children captive in the basement below a Washington D.C. pizza joint. The rumor gained so much steam that many people believed it was true. Eventually, a would-be vigilante stormed the restaurant with a gun, looking for abused children who did not exist.

52. The difference between Pizzagate and Satanic Panic is that during the 1980's and 1990's, people actually went to jail due to these prosecutorial fantasies. Although the people involved were eventually exonerated, the stigma which associates Satanism with pedophilia persists, and it continues to have a chilling effect on personal, private conduct between consenting adults.

53. The anti-fornication, anti-adultery and bigamy laws impose a much greater burden on Satanism than they do on Christianity. There has been no shortage of Christian politicians who have been caught having open and notorious relationships with people outside the bounds of marriage. President Donald J. Trump, for example, explained his predilection to "grab em by the pussy," while President William Jefferson Clinton had sex with an intern in the Oval Office. Neither man was accused of criminal adultery or fornication. These Christian politicians have instead been embraced despite their foibles, and they proceeded to have open affairs without fear of any reprisal. A Satanist who practices ritual sex magick cannot have open and notorious relationships without fearing a State which is determined to criminalize their religious beliefs and activities.

C. Plaintiff is Harmed by Illinois Laws Regulating and Prohibiting Private Consensual Conduct

54. Plaintiff is aware that the State of Illinois criminalizes "fornication." Illinois' anti-fornication statute forbids unmarried persons from having sex with each other if their relationship is "open and notorious." Ill.Rev.Stat., ch. 38, 11-40.

55. By filing this lawsuit, Plaintiff's intimate relationships would be "open and notorious" such that he could be charged with criminal conduct. Plaintiff already posts photographs and videos to internet sites like Fetlife, where he makes his sexual activities public. He has had sex at events which are public, or in front of other people. Plaintiff does not hide the fact that he has married sexual partners. He has continued to post on websites where people seek sexual partners, included discussing his religious Satanic sex magick preferences on OKCupid.

56. By discussing his past and current sexual partners publicly, Plaintiff reasonably fears he may be subjected to criminal penalties, including jail time. The potential deterrent effect of a vague or overbroad statute gives Plaintiff standing to attack these statutes.

57. Plaintiff is aware that the State of Illinois criminalizes marriage if "that person has a husband or wife and subsequently knowingly marries another." 720 ILCS 5/11-45(a).

58. Since Plaintiff knows his intended marriages would be criminal under Illinois criminal law, he sought more information about the marriage process in Cook County by making a Freedom of Information Act request to the Illinois Department of Health.

59. Cook County responded to the FOIA request by providing one page - a marriage license form. A representative of Defendants' Department of Health stated that more than one marriage license would not be provided. Plaintiff was told that marriages would only be processed in Illinois between two sequentially, not more than twoconcurrently. There is no law explicitly banning a concurrent plural marriage between Plaintiff and multiple partners at the same time, but Defendant refused to permit the marriage applicants to proceed.

60. Presumably, Plaintiff could list more than two people by modifying the paper form via write in, but based on the DOH response, Plaintiff reasonably believes the Defendant has by software code placed a filter rejecting more than two names into the computer system legally executing a concurrent marriage of three or more.

61. Plaintiff did not marry the prospective marital partners he intended to marry because he knew that any subsequent marriages would subject them to criminal prosecution.

62. As a result, Plaintiff and his intended fiancés, parted ways. Their relationship was destroyed by the prospect of disruptive State action against their chosen family.

63. Plaintiff faces discrimination because of his religious beliefs, which includes a belief in concurrent plural marriage and conduct which the State may consider adulterous. As a Satanist, a group marriage, where all adults consent freely to be married to each other, would be religiously sanctioned.

64. Plaintiff seeks declaratory and injunctive relief guaranteeing him the right to apply for and receive a marriage license for himself and two or more people.

65. Plaintiff seeks declaratory and injunctive relief guaranteeing his marriages receive legal State recognition, including all of the rights and protections available on the basis of marital status.

66. First, Plaintiff seeks an injunction prohibiting Defendants from continuing to enforce the State's criminal fornication, adultery and bigamy statutes.

67. Second, Plaintiff seeks an injunction and declaration recognizing plural marriage and giving polygamists equal protection and application of the laws, including the laws regulating civil marriage.

68. Third, even absent a ruling striking down the bigamy law, Plaintiff seeks a writ of mandamus ordering the Department of Health and Human Services to accommodate a marriage performed concurrently between more than two people in parallel on the marriage license and systems.

D. Plaintiff Has Standing to Sue

69. A criminal statute need not be criminally prosecuted in order to be enforced in a manner that causes a citizen justiciable harm, fairly traceable to the criminal statute.

70. A criminal statute aimed specifically at one group of citizens, the enforcement of which has not been disavowed by the State, creates a fear of prosecution sufficient to confer standing unless there are other circumstances which make that fear "imaginary" or "wholly speculative." *Babbitt v. United Farm Workers*, 442 U.S. 289, 302 (1979) (a union and its members had standing to challenge a statute imposing criminal penalties for certain types of union publicity despite the state's argument that the criminal penalties had never been and might never be applied). See also *Epperson v. Arkansas*, 393 U.S. 97, 100-02 (1968) (high school science teacher had standing to challenge constitutionality of 1928 criminal law prohibiting the teaching of evolution without any record of prosecutions under the law, because the teacher was directly affected by the law); *Doe v. Bolton*, 410 U.S. 179 (1973) (doctors challenging certain provisions of Georgia's abortion laws found to have standing without arrest because they were the ones against whom the criminal statutes directly operated); *Virginia v. American Booksellers Assn*, 484 U.S. 383 (1988) (booksellers had standing to bring a pre-enforcement challenge to a statute making it unlawful to knowingly display sexually explicit material

in a manner accessible to juveniles because the law was aimed directly at the booksellers).

71. If Plaintiff chooses to enter into marriage relationships with more than one person on a sequential basis, he reasonably fears that the State will imminently enforce Illinois' anti-bigamy and anti-adultery criminal statutes, whether by prosecution, by further denial of equal protection of State law, or other government action.

72. Moreover, the criminal statutes that prevent polygamy and adultery in Illinois, and the failure of the Department of Health and Human Services to accommodate multiple marriage partner on the marriage license application, specifically target Plaintiff and similarly situated individuals, causing fear of prosecution. A criminal statute aimed specifically at one group of citizens, the enforcement of which has not been disavowed by the State, creates a fear of prosecution sufficient to confer standing unless there are other circumstances which make that fear "imaginary" or "wholly speculative." *Babbitt v. United Farm Workers*, 442 U.S. 289, 302 (1979) (a union and its members had standing despite the state's argument that the criminal penalties had never been and might never be applied to certain union activities). See also *Epperson v. Arkansas*, 393 U.S. 97, 100-02 (1968) (high school science teacher directly affected by a 1928 criminal law prohibiting the teaching of evolution without any record of prosecutions under the law had standing to sue); *Doe v. Bolton*, 410 U.S. 179 (1973) (doctors directly targeted by criminal laws applying to abortion providers had standing to sue even though they had not been arrested); *Virginia v. American Booksellers Assn,* 484 U.S. 383 (1988) (booksellers had standing to bring a pre-enforcement challenge to a statute making it

unlawful to knowingly display sexually explicit material in a manner accessible to juveniles because the law was aimed directly at the booksellers).

73. The mere existence of these laws, intentionally by the design of the marriage license form and the computer system, along with the ban on polygamous marriage, effectively create a chilling effect on Plaintiff's future relationships.

74. The criminal laws which label people who are in relationships with more than one person as "bigamists" create a psychological deterrent to forming these kind of relationship bonds. Some individuals will be deterred from even seeking out relationships with multiple partners because the law insists they are repugnant and criminal. The state laws are casting a moral judgment which is derogatory. This has a chilling effect on freedom of speech. Plaintiff reasonably fears prosecution by simply posting his religious artwork and commentary on websites.[3]

75. Plaintiff has already been, and continues to be, injured by the mere existence of State criminal statutes banning fornication, adultery and bigamy, because even seeking a

[3] Plaintiff has even more reason to be concerned that his religious freedom will be declared illegal by the federal government. President Trump will soon have the opportunity to sign a new anti-human trafficking law. The law, which is intended to stop predators from using websites to facilitate sex trafficking, will amend Section 230 of the Communications Decency Act, which protects online platforms from being held liable for their users' speech. H.R. 1865, known as the Fight Online Sex Trafficking Act (FOSTA), would open websites to prosecution for knowingly promoting illegal activities and allow victims to sue for damages. FOSTA allows state attorneys general to hold websites liable for posts which "unlawfully promote and facilitate prostitution and websites that facilitate traffickers in advertising the sale of unlawful sex acts with sex trafficking victims." It also amends the Mann Act, a 1910 anti-prostitution law. FOSTA would create a new federal criminal offense for websites that publish content "with the intent to promote or facilitate the prostitution of another person." The offense would be punishable by up to 10 years in prison. Although all interested parties share concerns about the prevalence of sex trafficking, critics of the bill point to its very broad definition of the facilitation crime as a potential problem. The law defines any person who participates "in an [online] venture" as potentially liable. The House bill defines "participation in a venture" as anyone "knowingly assisting, supporting or facilitating a violation" of the law. Under the current interpretation of the bill, there are concerns that any person who posts about sexual content online could potentially be charged with violating the law, exposing them to steep criminal and civil penalties. In response to concerns about the law, prominent websites like Craigslist have eliminated their personals sections over fears that people seeking consensual sex could subject the website to lawsuits. Prosecutors in Illinois could also use this law to charge people like Plaintiff.

marriage license for more than one partner will label Plaintiff a criminal, which damages his dignity, encourages discrimination, and forces Plaintiff and his partners to live in fear of persecution for practicing sincerely held religious beliefs and for observing Plaintiff's conscience.

76. Plaintiff has a genuine interest in the outcome of this case.

77. Plaintiff has suffered, and will continue to suffer, injuries that are distinguishable from those of the general public.

78. Such injuries may be redressed with this Court's decision prohibiting Defendants from enforcing the State's criminal anti-fornication, anti-bigamy and anti-adultery laws, either by prosecution or as justification for denial of equal legal treatment.

79. Such injuries may be redressed with this Court's decision requiring the State to recognize the marriages of people to more than one spouse of any gender.

80. Such injuries may be redressed with this Court's decision requiring the Department of Health and Human Services to change their marriage license application form and computer services to accommodate concurrent plural marriage between more than one person.

81. If Plaintiff is denied standing to challenge enforcement of State laws banning plural marriage and adultery, the result would be to immunize those criminal statutes from review.

82. In deciding *Obergefell v. Hodges*, the Supreme Court ruled that the 14th Amendment requires a State to license a marriage between two people of the same sex and recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed out of state. This ruling brought the laws applicable to same-sex

partners in line with the laws applicable to opposite sex marriages. Opposite sex marriage was already required to be recognized by all 50 States regardless of where the marriage was performed (given "full faith and credit").

83. Justice Kennedy, writing for the majority, "[T]he right to marry is a fundamental right inherent in the liberty of the person, and under the Due Process and Equal Protection Clauses of the Fourteenth Amendment couples of the same-sex may not be deprived of that right and that liberty. The Court now holds that same-sex partners may exercise the fundamental right to marry….[T]he State laws challenged by Petitioners in these cases are now held invalid to the extent they exclude same-sex couples from civil marriage on the same terms and conditions as opposite-sex couples."

84. The State has no greater interest in preventing concurrent plural marriages than they did same sex ones or marriages of just two people. Indeed, as Chief Justice Roberts said in his dissent, under the majority's viewpoint, the government does not have a stronger justification for outlawing marriage between more than two people:

> It is striking how much of the majority's reasoning would apply with equal force to the claim of a fundamental right to plural marriage. If "[t]here is dignity in the bond between two men or two women who seek to marry and in their autonomy to make such profound choices," *ante*, at 13, why would there be any less dignity in the bond between three people who, in exercising their autonomy, seek to make the profound choice to marry? If a same-sex couple has the constitutional right to marry because their children would otherwise "suffer the stigma of knowing their families are somehow lesser," *ante*, at 15, why wouldn't the same reasoning apply to a family of three or more persons raising children? If not having the opportunity to marry "serves to disrespect and subordinate" gay and lesbian couples, why wouldn't the same "imposition of this disability," *ante*, at 22, serve to disrespect and subordinate people who find fulfillment in polyamorous relationships?

Obergefell v. Hodges, 576 U.S. ___ (2015); Roberts, J. dissenting.

85. The State will cite interests such as sexual assault, statutory rape and exploitation of government benefits as reasons for criminalizing bigamy and adultery, and outlawing civil marriage between more than two people.

86. However, there are other laws to prosecute these types of crimes. In fact, statutes outlawing sexual assault, statutory rape and exploitation of government benefits are used to stop these abuses when they occur in polygamous and monogamous families alike.

87. Outlawing polygamous marriages does nothing to prevent these concerns other than drive these families further underground, beyond the purview of government investigators and law enforcement, thereby increasing the risk that sexual assault, statutory rape and exploitation of benefits actually happens.

IV. THE HISTORY OF POLYGAMY, ALTERNATIVE FAMILY RELATIONSHIPS AND SEX MAGICK

88. Polygamy is the practice of taking more than one spouse. Polygyny is the practice of one man taking more than one wife, and polyandry is the practice of one woman taking more than one husband. Unlike bigamy, which traditionally referred to a circumstance where a person had one or more spouses who are unaware of each other, the partners in a polygamous relationship are all aware of each other and have consented to be married to more than one person at a time.

89. In this Complaint, Plaintiff uses the term "concurrent plural marriage" to signify a polygamous marriage, meaning a union that has at least three spouses of any gender.

90. In this Complaint, Plaintiff is challenging Defendant's refusal to allow him to enter into concurrent plural marriages, which are not illegal because they are not performed sequentially. Despite there being no law outlawing concurrent plural marriages, the

Department of Health and Human Services does not have a marriage license application form which accommodates concurrent plural marriage.

91. In the United States, polygamy is sometimes known as "plural marriage," the term used by the Church of Jesus Christ of Latter Day Saints (the Mormon church). Plaintiff is not a member of the Mormon church. Although polygamy is most closely associated with the Mormon church, the practice of having more than one spouse did not originate with the Mormons.

A. Polygamous Relationships Have Been Common Throughout Human History

92. In 1998 the University of Wisconsin surveyed more than a thousand societies. Of these, just 186 were monogamous. Some 453 had occasional polygyny and in 588 more it was quite common. Polyandry flourished in four societies, such as among the Irigwe people of Nigeria, which allowed a woman to have co-husbands, until 1968.

93. Polygamy may be motivated by religious belief, or motivated by cultural identity, or motivated by personal philosophy. However, one thing remains clear: polygamy is both ancient and modern.

94. The ancient Hebrews practiced polygamy. Under levirate law, a man was required to marry his brother's widow, even if the man already had a legal wife. Sarah, barren wife of Abraham, allowed her husband to marry her handmaiden so that he could have an heir. Jacob, David and Solomon were also polygamists.

95. In China and Japan, polygamy was legal until the 19th century. In India, Hindus permitted polygamy if the first wife consented to additional wives. In Turkey, the sultans could have up to four wives. Plaintiff rejects the idea that monarchs have special rights to have multiple spouses.

96. In Russia, polygamous marriages have been recognized by law for pragmatic reasons. For example, when the population of women far exceeded the population of men, such as after the Russo-Turkish War, a man was permitted to have more than one wife. Even today, Russian men father children with more than one woman, despite polygamy being illegal. The Russian State does not prosecute because there are 9 million more women than men. "Russians beating demographics with polygamy". Russia Today. 26 July 2011. Retrieved 9 March 2018; "'Half a good man is better than none at all'". The Guardian. Mira Katbamna (26 October 2009). Retrieved 17 March 2018.

97. The ancient Greeks practiced a variety of different marriage formats. The Spartans focused on eugenics, allowing women to have children with any man, inside or outside of marriage, to produce children with the best genes. (Echoes of this practice of scientifically producing the best possible genetic offspring survive today in the Satanic belief in science.) The elite ruling class of Greece practiced polygamy. Phillip and his son Alexander the Great had multiple wives and concubines.

98. The United States derives its legal tradition from Anglo-Saxon law, in particular the tradition of common law. Polygamy in many forms was practiced in the ancient territories of the United Kingdom where Anglo-Saxon traditions were based. The Celts practiced polygamy both before and after the pagan conversion to Christianity. Under the law in pre-Christian Ireland, the children of polygamist parents could legally inherit property. The ancient Britons were polygamous, wrote Julius Caesar, including situations where men could have more than one wife, and women could have more than one husband.

99. Christians have sought flexibility in monogamous marriage bounds when it suited them politically. The Merovingian kings of the Franks were polygamous. Polygamy was legal

during the early days of Romanized Christianity. Valentinian I, in the Fourth Century, authorized Christian men to have two wives. In the Ninth Century, Charlemagne persecuted the pagan empires for their alleged barbarity and inferiority, but privately practiced polygamy, having at least five wives.

100. During the early Middle Ages, the Franks had a system where a man could marry one wife for life, but then take several wives in a *Friedelehe* for as long as they wished. The marriage was based on a consensual agreement between husband and wife and the women had the same right as the man to ask for divorce.

101. Polygamists continued to assert their right to marry more than one spouse even among Christians. The Münster rebellion in 1534-35 involved religious disputes among a sect of Anabaptists who sought the right to form polygamous marriages and live under a communal government.

102. During the Reformation period, Martin Luther proclaimed that there was no Biblical authority preventing polygamous marriage. When Philip, Landgrave of Hesse Cassel, requested permission to marry a second wife, Luther convened a synod of six scholars who determined "that as the Bible nowhere condemns polygamy, and as it has been invariably practiced by the highest dignitaries of the church" the marriage was legitimate. "I confess that I cannot forbid a person to marry several wives, for it does not contradict the Scripture."

103. In Germany in 1650 the parliament at Nüremberg decreed that each man could marry up to ten women because so many men were killed during the Thirty Years' War. Once again, the idea of single-spouse marriage gave way to political expediency.

104. The 16th-century Italian Capuchin monk, Bernardino Ochino wrote the "Thirty Dialogues," including Dialog XXI, which was a defense of polygamy. Martin Madan, a contemporary of John Wesley, wrote a Christian defense of Thelyphthora in 1780. His tract became the foundation of the Modern Christian polygamist movement.

105. Throughout Christian history, polygamy has been illegal, except when it was not. Political expediency and religious theorizing have permitted the practice in several circumstances.

106. Today polygamy is common in many parts of the world. In South Africa, Polygamy is legal under certain circumstances, under the Recognition of Customary Marriages Act. Former President Jacob Zuma had four legally-recognized wives. Polygamous marriage in South Africa is cultural, not religious, as it is practiced among the indigenous Bantu peoples, who practice native religion, Christianity and Islam.

107. In Senegal, around 47 percent of marriages include more than one spouse. In the Arab world, polygamy is generally legally. In Israel, about 30 percent of the Bedouins practice polygamy. The United Kingdom recognizes the legality of polygamous marriages which are performed legally in Muslim countries. After the Muslim polygamists move to the United Kingdom, they are given the same legal rights as traditional marriage.

108. In the United States, it is estimated that at least 10,000 Mormon fundamentalists lived in polygamous families, according to a report of The Salt Lake Tribune in 2005. The real number of polygamists in the United States is unknown, because the practice has been driven underground.

109. Historically, polygamist marriages have had both positive and negative impacts on the rights of women. In many cultures, marriage of the brother's widow was meant to

provide protection and legal status for her and her children. In other cultures, the taking of more than one wife was coercive and abusive, with women forfeiting their legal rights, or acting as official concubines to high-status males.

110. However, polygamist marriages have also occurred among peoples who valued women, granting them more legal rights and autonomy. In pre-Christian Scandinavian times, women could own property and divorce their husbands. Polygamy was observed and attested to in the Sagas and by disapproving Christians. The disapproving Christians did not permit women to own property in the late Viking Age, nor did they allow divorce, since women were seen as chattel.

111. As these examples (as well as the instances of polygamy in North America native cultures) make clear, abuse of women is not a function of polygamy; it is the function of the society which makes laws regarding the status of women. In 2018, women who want to enter into polygamous arrangements, including performing acts which would be considered bigamy, fornication or adultery under Illinois law, are exercising their free will, as well as the liberties granted to them by the United States Constitution.

B. North American Polygamous Traditions

112. In North America, indigenous people practiced polygamy before and after the European invasion. The Navajo permitted men to take more than one wife, often marrying widows or their wives' sisters. Some tribes permitted wife-sharing, such as the Lakota Sioux and the Pawnee. It was common for the Pawnee to set up joint households, sharing wives and property.

113. Polyandry was common among the Pawnee and Comanche. When Pawnee boys reached puberty, he would become a junior husband to older women in the family. In

indigenous North American cultures, property was often communal, and marital relationships were voluntary, meaning that people could enter and leave marriages as they pleased. Children were considered the progeny of many mothers and fathers and were not considered property; they were given rights regardless of the status of their biological parents.

114. When Mormon leaders challenged the illegality of polygamy in the case *Reynolds v. United States*, 98 U.S. 145 (1878), the Supreme Court decided against their cause, in part because polygamy was not considered "American." *Reynolds* could never survive the strict scrutiny the Court applies in religious freedom cases today.

115. In reality, nothing is more "American" than polygamy, which includes consensual relationships between more than two people, regardless of sexual orientation or gender identity.

116. When the Supreme Court wrote that "Polygamy has always been odious among the northern and western nations of Europe, and, until the establishment of the Mormon Church, was almost exclusively a feature of the life of Asiatic and of African people," the observation was not just false, it was rooted in racism. *Id.* at 164. Supreme Court decisions from the time are rife with racism that would not be permitted in today's jurisprudence, rendering this line of decisions as legally meaningless.

117. The Edmunds Anti-Polygamy Act of 1882 continued the legal assault on polygamous marriages and added prohibitions on "unlawful cohabitation" between unmarried persons. The Act made bigamy a felony and cohabitation a misdemeanor. People found guilty of these offenses were prohibited from voting, holding public office, or serving on juries.

118. The state laws criminalizing alternative relationships are rooted in colonial presumptions of cultural superiority and Christian majority mores. A decade after *Reynolds,* the Supreme Court reiterated that the social harm which is said to be the result of polygamous marriages is "a return to barbarism" that was "contrary to the spirit of Christianity." *Late Corp. of The Church of Jesus Christ of Latter-day Saints v. United State*s, 136 U.S. 1, 49 (1890).

119. "The organization of a community for the spread and practice of polygamy is, in a measure, a return to barbarism. It is contrary to the spirit of Christianity and of the civilization which Christianity has produced in the Western world," said the Court. *Id.* at 49.

120. The Supreme Court's jurisprudence in the area of polygamy is hopelessly intertwined with racism and religious bigotry which is contrary to the Constitution.

121. In 1891, Congress enacted the Immigration Act of 1891, which added polygamists to the list of people who were completely barred from immigrating to America.

122. There is precedent for recognizing foreign polygamous marriages in America, which undercuts the government's claims that plural marriages can be opposed on moral grounds. See *In Re Estate of Bir,* 83 Cal.App.2d 256 (1948) (California Court of Appeal held that California would recognize a foreign polygamous marriage for the purposes of intestate succession, allowing both wives to inherit property). Although U.S. immigration authorities have yet to recognize foreign polygamist marriages for immigration purposes, a published decision notes that "[there have been exceptions from the nonrecognition of marriages, such as American Indian tribal marriages, which have been upheld in the

absence of a federal statute rendering such tribal laws and customs invalid. While the statement lies be English decision to the effect that no recognition will be given to foreign marriages which are not a monogamous union of man and one woman for life, nevertheless, such marriages, nevertheless, under the law governing them, have at times been recognized as valid in this country." *In Re Matter of H*, Visa Proceedings, A-12378722 (Decided by Board May 1, 1962).

123. The *Reynolds* holding has in fact been limited by the courts, which have held that polygamous marriages performed in accord with tribal laws are valid in the United States. See *Hallowell v. Commons*, 210 F. 793, 800 (8th Cir. 1914). Again, the reason these marriages are deemed valid is because Congress has not expressly directed polygamous tribal unions be declared void. A similar condition applies to those who practice or seek to practice concurrent plural marriage, which is not void under any U.S. law.[4]

124. However, in the immigration context, the U.S. still broadly excludes polygamists. Under immigration law, "[p]olygamy is not the same as bigamy. Bigamy is the crime of marrying a person while being legally married to someone else. An applicant who has committed bigamy may be susceptible to a denial under the "unlawful acts" provision."

125. The UCSIS Policy Manual defines polygamy as "the custom of having more than one spouse at the same time." See 8 CFR 316.10(b)(2)(ix) INA 101(f)(3). The policy of the U.S. government is that people who were legally married under the laws of other countries are not permitted to immigrate to the United States because they cannot show

[4] Notably, same-sex marriages performed under tribal law preceded the Supreme Court's decision overturning section 3 of DOMA. See Bill Graves, "Coquille Tribe Allows Same-Sex Marriage," Portland Oregonian, May 22, 2009, at B3.

"good moral character" (known by UCSIS as 'GMC'). See INA 101(f)(3) and INA 212(a)(10)(A).

126. Polygamous marriages are legal throughout the world. Currently, 26 African nations and 21 Asian countries recognize polygamous marriages. Five other nations recognize polygamous marriages for Muslims only. A third of married women are involved in polygamous marriages in Western Africa. Polygamy was the acceptable form of marriage in pre-Christian and pre-colonial times in much of Asia and Africa, and it is practiced for religious and secular purposes today.

127. U.S. immigration policy is therefore labelling every person involved in polygamous marriages as having poor moral character. This policy is a remnant of colonialist notions that had a dramatic impact on Africa. The Atlantic slave trade is thought to have increased polygamist marriages, since more male slaves were exported in the trans-Atlantic slave trades from Western Africa, while more female slaves were exported in the Indian Ocean slave trades from Eastern Africa. This created long periods of abnormal sex ratios, which impacted the rates of polygamy. Now that the practice of having multiple spouses has continued into the 21st century, the U.S. government uses it against the practitioners, essentially denying immigration to people based on both religion and race.

128. The only way the U.S. government lifts the immigration bar for polygamists is if the parties divorce, with one spouse subsequently designating just one other person as a spouse for immigration purposes. This is an explicit policy which favors the breakup of families as a condition of showing good moral character.

129. Under the U.S. Constitution, Plaintiff cannot force his preferred relationship structures on American Christians, nor can they force their man/woman marriage

structure upon him. But that is precisely what Illinois law allows them to do, despite the inherent contradiction in their interpretation of their own religion.

C. Religious Sex Magick Rituals

130. The three laws at issue in this Complaint all enforce a particular Judeo-Christian interpretation of sex: that it should only be permitted between monogamous, married people. This one-sided interpretation of sex suppresses a historical and religious truth that sexual religious rites have been part of religious traditions for thousands of years.

131. The Canaanites of Ancient Israel engaged in ritual sex acts to honor the fertility Goddess Asherah, with the hope of summoning the God Baal to have sex with her, leading to fertility for the Canaanites. The Hittites practiced sacred prostitution as part of a cult of deities, including the worship of a bull god and a lion goddess. Babylonians urged women to participate in a sex rite involving sex with a stranger once in their life at the temple of Aphrodite.

132. The ancient Greek Bacchanalian festivals which were held in honor of Bacchus, God of wine and ecstasy, eventually spread to ancient Rome. The rituals included the use of intoxicants and trance-inducing techniques, as participants engaged in sexual acts often led by people who were marginalized in society, women, slaves, outlaws and foreigners. These rituals were so popular and subversive that they were eventually banned by the government

133. In the modern era, there has been both a revival of ancient Western religious traditions and the creation of new ones. Some Wiccan sects practice The Great Rite, which focuses on sex to symbolize the union of the God and Goddess. The rite is used to generate specific and powerful energy.

134. The Eastern esoteric tradition also includes ritualized sex practices. There are some tantric texts in Buddhism and Hinduism which regard sex as natural, good, desirable, and as a means

of spiritual transformation. Tantric sex practices are meant to recreate the bliss of Shiva and Shakti. Sex in this viewpoint is the center of the universe with a power and purpose which goes beyond mere procreation. People who participate in these religious traditions thus view sex as a sacrament that is a means to spiritual fulfillment.

135. There are links between the religious practices of Tantric sex and the sex magick rites of the West. Both use sex to create intimacy between participants, to expand consciousness, to summon the energy of the universe, and to experience the divine.

V. CLAIMS FOR RELIEF

First Claim for Relief: DUE PROCESS

136. Plaintiff incorporates by reference all previous paragraphs herein.

137. The Due Process Clause of the Fourteenth Amendment to the United States Constitution guarantees Plaintiff fundamental liberties which the enforcement of Illinois laws denies.

138. When the Supreme Court struck down a Texas sodomy law *in Lawrence v. Texas,* 539 U.S. 558, 562 (2003), it stated that "Liberty protects the person from unwarranted government intrusions into a dwelling or other private places… Liberty presumes an autonomy of self that includes freedom of thought, belief, expression, and certain intimate conduct."

139. After *Lawrence*, Courts have held that there is a broad right to sexual privacy. Thus, in *Martin v. Ziherl*, 607 S.E.2d 367 (Va. 2005), the Virginia Supreme Court struck down an anti-fornication statute, stating that people had the right "to enter and maintain a

personal relationship without governmental interference." *Id.* at 369. The anti-fornication statute violates Plaintiff's right to sexual privacy.

140. The Illinois anti-fornication and anti-adultery statutes violate due process because they deny consenting adults the right to make personal decisions about who they have sexual relationships with, by making sexual relationships criminal acts.

141. The statutes make certain relationships illegal if they are "open and notorious" without defining that term with any definiteness, leaving Plaintiff and his partners uncertain of what conduct could subject them to criminal sanctions.

142. The Illinois bigamy statute violates due process because it denies consenting adults the right to enter into marriages with more than one person of any sex, despite all parties to the marriage consenting to the arrangements. This denies Plaintiff and his intended partners their liberty to manage property, inheritance, children and other aspects of life according to their wishes, and denies them the right arrange their lives as they see fit without interference of the state.

143. The right to privacy by both unmarried and married persons to engage in consensual sexual conduct is protected by the Constitution. *Eisenstadt v. Baird*, 405 U.S. 438 (1972). Subjecting Plaintiff to potential jail time for having sex without being married, or for having more than one spouse, or for having sex with a married person, all violates the Due Process Clause.

Second Claim for Relief: EQUAL PROTECTION

144. Plaintiff incorporates by reference all previous paragraphs herein.

145. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution requires that all people are treated equally, with no person or group being singled out for punishment.

146. The anti-fornication, anti-bigamy and anti-adultery laws are unconstitutional on their face and as applied to Plaintiff.

147. Satanists are already subjected to persecution and discrimination because of their religion, and Plaintiff has a reasonable belief that he will be persecuted because he belongs to minority faith traditions.

148. The anti-fornication and anti-adultery statutes seemingly do not apply to people who are already "living in sin" but doing so privately, by lying about the status and nature of their relationships.

149. The anti-bigamy statute can be used to attack people of minority religious practices, as well as those with cultural beliefs about marriage to more than one spouse. A person could have children with more than one person, but only those who marry more than one parent are subject to prosecution under this statute.

150. The three laws discriminate against people with more than one sexual partner if they choose to make their relationships permanent through marriage, or if they choose to declare their relationships openly. If the people in these arrangements lie about their status, they are protected under the law.

151. State denial of marriage licensure to plural marriage contracts denies equal protection of the law, contrary to the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

152. State laws criminalizing and refusing to acknowledge plural marriage contracts impermissibly treat peaceful individuals unequally, merely because their conclusions of conscience differ from those of the majority.

153. Due to the Illinois ban on bigamy, Plaintiff is denied benefits that two-person married people receive, including tax benefits, estate planning, state benefits, employment benefits, medical benefits, housing rights, consumer benefits, immigration rights and privileges, and judicial benefits. Denying Plaintiff these benefits because of his desire to marry more than one person is a denial of equal protection under the law.

154. There is no compelling state interest or rational basis for the disparate treatment of households made up of multiple religiously bonded partners and multiple cohabitating individuals without committed familial relationships.

Third Claim for Relief: FREE EXERCISE OF RELIGION

155. Plaintiff incorporates by reference all previous paragraphs herein.

156. The Free Exercise Clause of the First Amendment to the United States Constitution allows all citizens the right to the free exercise of their religion. The anti-fornication, anti-adultery and anti-bigamy statutes, both on their face and as applied to Plaintiff, deny him the religious freedom he is owed by the First Amendment.

157. The laws violate Plaintiff's fundamental liberty to practice his religion by denying him the right to organize his private relationships in conformity with his religious beliefs. According to Illinois law, Plaintiff is a criminal if he openly and honestly acknowledges his partners as part of his spiritual life. Under Illinois law, it is therefore criminal for Plaintiff to openly practice Satanism and its religious rituals. Satanism has long been singled out for punishment and organization. These laws are open to selective

prosecution, allowing state authorities the right to single out minority faiths, like Satanism, for enforcement.

Fourth Claim for Relief: FREE SPEECH

158. Plaintiff incorporates by reference all previous paragraphs herein.

159. The First Amendment of the Constitution guarantees Plaintiff the right to freedom of speech and expression. The anti-fornication, anti-adultery, and anti-bigamy laws abridge this fundamental liberty.

160. The anti-fornication and anti-adultery laws apply in situations where people are "open and notorious" about their relationships. These two laws explicitly target people for prosecution who engage in speech about their intimate relations.

161. Under the law on its face and as applied, Plaintiff is exposed to potential criminal prosecution for communicating about his private relationships, such as changing his Facebook status, posting a photograph on Instagram, publishing videos or photographs on Fetlife or other sites, or holding a public commitment and marriage ceremony.

162. The anti-fornication and anti-adultery statutes are unconstitutionally vague, failing to define the term "open and notorious" and leaving Plaintiff and his partners uncertain of what conduct could subject them to criminal sanctions. The statutes consequently have a chilling effect on speech.

Fifth Claim for Relief: FREEDOM OF ASSOCIATION

163. Plaintiff incorporates by reference all previous paragraphs herein.

164. The First Amendment to the United States Constitution protects a person's right of association. Freedom of association encompasses both an individual's right to join or

leave groups voluntarily, and the right of the group to take collective action to pursue the interests of its members.

165. A fundamental element of personal liberty is the right to choose to enter into and maintain certain intimate human relationships. Therefore, there is a right of "intimate association" as a branch of substantive due process. *Roberts v. United States Jaycees*, 468 U.S. 609, 618-22 (1984).

166. Intimate association includes the right to define the family, including determining the number of intimate partners and nature of the relationship, and participating in any kind of sexual Satanic rituals with other consenting adults as they see fit.

167. In *Perez v. City of Roseville*, supra, the Ninth Circuit panel held that the constitutional guarantees of privacy and free association prohibit the State from taking adverse employment action on the basis of private sexual conduct unless it demonstrates that such conduct negatively affects on-the-job performance or violates a constitutionally permissible, narrowly tailored regulation.

168. The prohibition on adultery, fornication and bigamy as applied by Illinois are unconstitutional, as they are not narrowly drawn to satisfy a compelling state interest. By interfering with Plaintiff's religious rituals, they cannot survive strict scrutiny analysis.

169. Satanists like Plaintiff have been hounded by persecution in the United States, driving many of them to live their lives underground, in fear that open displays of religion and religious rituals will result in criminal prosecution and social ostracizing.

170. The threat of persecution under anti-fornication, anti-adultery, and anti-bigamy statutes has resulted in a loss of intimate relationships by Plaintiff, and deterred Plaintiff

from seeking out other partners. Since Plaintiff cannot marry, his sexual relations, which are mandated by his religious beliefs, are stigmatized and condemned as wrong and immoral, casting Plaintiff as a whore. Even Plaintiff's psychiatrist has recommended settling down with a partner would be in his best interests. However, Plaintiff believes his body is inviolable and subject to his Will alone, and that he and his partners must make decisions based on the best scientific understanding of the world, even if the science does not comport with the religious or political beliefs of others. Plaintiff believes that he and his partners have the sole authority to decide whether, when and how to proceed with marital relationships. Plaintiff believes that he and his partners have the sole authority to decide whether, when and how to proceed with religious, sexual rites.

171. Plaintiff's religious faith and ritual practices demand that each person acts according to their own Will. The inability to marry in accordance with his faith has had a deleterious effect on every area of Plaintiff's life and has caused serious harm.

Sixth Claim for Relief: ESTABLISHMENT OF RELIGION

172. Plaintiff incorporates by reference all previous paragraphs herein.

173. The Establishment Clause of the First Amendment to the Constitution guarantees fundamental liberties. The three statutes at issue, on their face and as applied to Plaintiff, violates these liberties.

174. Plaintiff represents a minority of religious and cultural polygamists who are singled out for prosecution and derision by people who consider themselves the "moral majority." Their antiquated religious beliefs are given preference by the State of Illinois, which historically persecuted Muslims for their faith, including their preference for polygamy. Illinois forced Mormons on a 1,300 mile exodus in 1846. Mormon leader

Joseph Smith and his followers had been chased from New York in Missouri before making Illinois their home. However, Smith and his brother were killed by a vigilante mob. Mormon persecution in Illinois was so severe that the state officially apologized for it in 2004.

175. Illinois' criminalization and unequal legal treatment of polygamy, through its laws against fornication, adultery and bigamy, is grounded in religious discrimination and the majoritarian desire to force compliance with the religious beliefs and morals of majority religious practices.

176. The State's concerns that plural marriage might be detrimental to society are irrelevant to the question of whether plural marriage can and should be criminalized or otherwise prohibited by civil law; the sovereign may not impose its conclusions of conscience on any peaceful individual.

177. For millennia, majoritarian religions have insisted, despite evidence to the contrary cited herein, that marriage was between a single man and a single woman.

178. The insistence that marriage must be between "one man and one woman" was rejected by *Obergefell v. Hodges,* 576 U.S. ___ (2015), wherein the Supreme Court held that marriage was a fundamental right that could not be restricted to opposite sex partners.

179. The State of Illinois does not have a statute banning polygamy. Instead it relies upon its anti-bigamy law. However, Illinois has no greater interest in preventing marriage between more than two people than they did same sex ones.

Seventh Claim for Relief: 42 U.S.C. 1983

180. Plaintiff incorporates by reference all previous paragraphs herein.

181. Insofar as they are enforcing the terms of State laws against fornication, bigamy and adultery, the Defendants, acting under color of State law, are depriving and will continue to deprive the Plaintiff of numerous rights secured by the First and Fourteenth Amendments to the United States Constitution in violation of 42 U.S.C. § 1983.

PRAYER FOR RELIEF

1. WHEREFORE, PLAINTIFF, prays that this Court:

A. Enter an order holding that State laws criminalizing fornication, adultery and bigamy violate the Free Exercise, Free Speech, Establishment, and Freedom of Association Clauses of the First Amendment; the Due Process and Equal Protection Clauses of the Fourteenth Amendment; and 42 U.S.C. § 1983.

B. Order a preliminary and permanent injunction enjoining the State from non-prosecutorial enforcement of State criminalizing fornication, adultery and bigamy;

C. Order Defendants to recognize the Plaintiff's right to obtain a marriage licenses for more than one partner;

D. Order the Department of Health and Human Services to create a marriage license application form that recognizes concurrent plural marriage between more than two persons at the same time;

E. Order the State of Illinois to legally recognize concurrent plural marriage between more than two persons at the same time;

F. Award the Plaintiff reasonable fees and costs incurred in maintaining this action pursuant to 42 U.S.C. § 1983.

G. Award such other relief as it may deem just and proper.

Dated this 20th day of April, 2018.

Respectfully submitted,

/s/ Kenneth Mayle

KENNETH MAYLE
PLAINTIFF, PRO SE

General Information

Court	United States District Court for the Northern District of Illinois; United States District Court for the Northern District of Illinois
Federal Nature of Suit	Other Statutory Actions[890]
Docket Number	1:18-cv-02924