

**IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

HUGH HELD and  
KELLEY RICHARDSON-WRIGHT,  
on behalf of themselves  
and all other similarly situated,

Plaintiffs,

v.

CAROLYN W. COLVIN, in her official  
capacity as Acting Commissioner of Social  
Security Administration,

Defendant.

Civil Action No. 2:15-cv-01732

**DECLARATION OF ERIK JONES**

Pursuant to 28 U.S.C. § 1746, I, Erik Jones, declare as follows:

1. I am the Associate Commissioner of the Office of Public Service and Operations Support (OPSOS), which is a branch within the Office of Operations in the Social Security Administration (SSA). I make this declaration based on my own personal knowledge, on information contained in the records of SSA, and/or on information provided to me by SSA employees.

2. As the Associate Commissioner of OPSOS, I provide operational, programmatic and administrative support to the Deputy Commissioner for Operations, regional offices, field offices, program service centers, central operations, and headquarters staff components. I am responsible for the operational delivery of public service and the overall effectiveness and efficiency of operational components. I oversee and conduct studies, analyses, and implementation planning on a myriad of issues related to SSA's benefit programs and provide

leadership on public service delivery, budget, management information, and administration issues.

### **SUPPLEMENTAL SECURITY INCOME OVERPAYMENTS**

3. One of the areas for which OPSOS has responsibility is the assessment of overpayments made to recipients of Supplemental Security Income (SSI) by technicians. SSI is a needs-based program administered by SSA that provides monthly payments to people with limited income and resources who are disabled, blind, or age 65 or older. One feature of that program is that, in determining an individual's eligibility and payment amount, the income and resources of the individual and the individual's ineligible spouse, if any, are taken into account. Accordingly, SSA's recognition of an individual's marriage may affect the individual's SSI eligibility or payment amount, depending on the amount of the ineligible spouse's income and resources. In addition, if both spouses are SSI eligible, SSA is required to pay SSI benefits based on a couple's rate that is less than twice an eligible individual's rate. If there is a delay between the individual's change in marital status and the date on which SSA learns of the change, the amount paid to the individual or couple could be more than that owed the individual or couple and that excess will constitute an overpayment.

4. OPSOS also has responsibility over technician determinations as to whether a waiver requested by an SSI recipient determined to have received an overpayment should be granted. SSI recipients who have been determined to have received overpayments can request waiver at any time; there is no deadline to request waiver.

### **UNITED STATES V. WINDSOR**

5. Prior to June 26, 2013, SSA did not recognize marriages between two persons of the same sex in light of section 3 of the Defense of Marriage Act, 1 U.S.C. § 7 (DOMA). For

that reason, SSI beneficiaries who were married to spouses of the same sex under state law were treated as single for purposes of determining their SSI eligibility and payment amounts.

6. On June 26, 2013, the Supreme Court found section 3 of DOMA to be unconstitutional in U.S. v. Windsor. As a result of the decision in Windsor, Section 3 of DOMA no longer precludes the federal government from recognizing marriages between persons of the same sex under the laws of states that give legal recognition to such marriages.

7. In some instances, this meant that SSI beneficiaries who previously received benefits as single individuals notwithstanding the fact that they were married to spouses of the same sex now were required to have their benefits redetermined as married individuals.

8. Although SSA determined that the plaintiffs in this case, Hugh Held and Kelley Richardson-Wright, had received overpayments for a period between the date on which Windsor's invalidation of section 3 of DOMA became effective and the respective dates on which their SSI eligibility and payment amounts were redetermined, those overpayments were waived in April 2015.

#### **HUGH HELD**

9. Following a periodic SSI eligibility redetermination for Mr. Held in April 2014, approximately ten months after the Windsor decision, SSA reduced the amount of Mr. Held's SSI benefits based on consideration of his spouse's income and resources. Because his marital recognition status had in fact changed effective July 2013 (the first month following the Windsor decision), SSA determined that he had received overpayments over a period from July 2013 to May 2014.



10. On or about October 2, 2014, Mr. Held filed a Request for Reconsideration (Form SSA-561) of the benefit reduction. A copy of Mr. Held's Request for Reconsideration is attached hereto as Exhibit A (personal information redacted).

11. SSA has considered Mr. Held's Request for Reconsideration to be a request for waiver, and, on or about April 29, 2015, made a determination to grant this request for waiver.

12. By letter dated April 30, 2015, SSA notified Mr. Held that it had granted his request for waiver of the overpayment. A copy of the April 30, 2015 letter is attached hereto as Exhibit B (personal information redacted).

13. By a subsequent letter dated May 1, 2015, SSA further notified Mr. Held that because it had granted the request for waiver of the overpayment, he was not required to repay the overpayment. The letter also notified Mr. Held that his overpayment balance was \$0.00. A copy of the May 1, 2015 letter is attached hereto as Exhibit C (personal information redacted).

14. As a result of the agency's determination to waive Mr. Held's overpayment, his current overpayment balance is \$0.00.

15. Because SSA waived Mr. Held's overpayment, he has no overpayment outstanding to SSA.

**KELLY RICHARDSON-WRIGHT**

16. Following a periodic SSI eligibility redetermination for Ms. Richardson-Wright in or around November 2014, approximately four months after the Windsor decision, SSA reduced the amount of Ms. Richardson-Wright's monthly SSI benefit to an amount based on the applicable SSI couple's rate. Because her marital recognition status had in fact changed effective July 2013 (the first month following the Windsor decision), SSA determined that she had received overpayments over a period from September 2013 to December 2014.

17. On or about January 15, 2015, Ms. Richardson-Wright filed a Request for Reconsideration (Form SSA-561-U2). A copy of Ms. Richardson-Wright's Request for Reconsideration is attached hereto as Exhibit D (personal information redacted).

18. SSA has considered Ms. Richardson-Wright's request for reconsideration to be a request for waiver, and, on or about April 30, 2015, made a determination to grant this request for waiver.

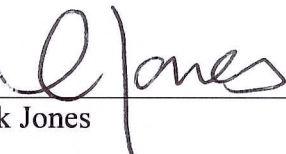
19. By letter dated April 30, 2015, SSA notified Ms. Richardson-Wright that it had granted her request for waiver of the overpayment. The letter also notified Ms. Richardson-Wright that because it had granted the request for waiver of the overpayment, she was not required to repay the overpayment, and that her overpayment balance was \$0.00. A copy of the April 30, 2015 letter is attached hereto as Exhibit E (personal information redacted).

20. SSA records show that, as a result of the agency's determination to waive Ms. Richardson-Wright's overpayment, her current overpayment balance is \$0.00.

21. Because SSA waived Ms. Richardson-Wright's overpayment, she has no overpayment outstanding to SSA.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 17th day of June 2015.

  
Erik Jones