

Kentucky county official defies court order on gay marriage

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The county clerk of Rowan County, Kentucky defied a federal court order Thursday by continuing her refusal to issue marriage licenses for same-sex couples. The county clerk, Kim Davis, claimed that her right to religious freedom would be violated.

The argument is both preposterous and anti-democratic. Davis is demanding the right to impose her own religious precepts on issuance of civil marriage licenses by the local government, an official action that, based on the constitutional separation of church and state, cannot be subordinated to the doctrines of a particular church.

By the same logic, Davis could refuse to issue licenses for interracial marriages, if those violated her religious beliefs, or between individuals of different religious faiths.

At least three gay couples have tried unsuccessfully to get marriage licenses in Rowan County since the US Supreme Court decision in late June struck down all state barriers to gay marriage in the last holdout region, the court of appeals district covering Kentucky, Indiana, Ohio and Michigan. Each couple was told that the county had stopped issuing any marriage licenses at all.

After the high court ruling, Kentucky Governor Steve Beshear ordered all 120 county clerks in to begin issuing licenses to gay couples. Only two have refused. On August 12, US District Court Judge David Bunning ordered the Rowan County clerk to resume issuing marriage licenses to all couples making application for them.

“Davis remains free to practice her Apostolic Christian beliefs,” Bunning wrote in his decision. “She may continue to attend church twice a week, participate in Bible study and minister to female inmates at the Rowan County jail. She is even free to believe that

marriage is a union between one man and one woman, as many Americans do. However, her religious convictions cannot excuse her from performing the duties that she took an oath to perform as Rowan County Clerk.”

Bunning added that Davis was “openly adopting a policy that promotes her own religious convictions at the expenses of others.” He rejected a freedom of speech argument as well, declaring that issuing a marriage license does not constitute speech, because the marriage license form “does not require the county clerk to condone or endorse same-sex marriage on religious or moral grounds.”

The judge is hardly a liberal—he is the son of ultra-conservative former US Senator (and baseball pitcher) Jim Bunning and was appointed to the federal bench by George W. Bush—but he was bound by the precedent set by the Supreme Court decision.

Attorneys for fundamentalist Christian groups filed an immediate appeal of Bunning’s order and Davis did not go to work Thursday, leaving employees in the clerk’s office instructions to continue the ban on all marriage licenses.

One of the gay couples told the *Louisville Courier-Journal* that they would continue pressing their demand for marriage equality in Morehead, the Rowan County seat, which is also the home of Morehead State University. Jim Yates, one of the two men, said, “This is probably one of the few communities in Eastern Kentucky where you really can be open and out most of the time, and there’s a lot of support.”

Rowan County has a population of just over 23,000 and includes one sizeable town, Morehead, with a population of 6,000. The largely rural area lies on the edge of the eastern Kentucky coalfield. The county is 96 percent white, but it is not a hotbed of religious

sentiment, ranking 113th out of 120 Kentucky counties in terms of church attendance.

State and local officials continue to conduct last-ditch efforts to block gay equality in parts of the deep South. Probate judges in 13 of 67 counties in Alabama are refusing to issue marriage licenses to anyone in order to avoid issuing such licenses to gay couples. Mississippi is continuing to maintain its state ban on gay adoptions, but four couples filed suit this week to overturn it.

In Colorado, the state court of appeals rejected claims by a suburban Denver baker that his freedom of religion and freedom of speech would be violated if he baked a wedding cake for a gay couple who sued him for refusing them service in 2012. The two men were eventually married in Massachusetts, but the case has continued, setting an important legal precedent in the state.



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