

Anti-gay Kentucky county clerk jailed for contempt of court

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On Thursday, Federal District Judge David Bunning jailed Kim Davis, the county clerk for Rowan County, Kentucky, for contempt of court. Bunning found that Davis was in willful defiance of his order of August 12, which required the anti-gay activist Davis to resume the issuance of marriage licenses in accordance with Kentucky and US law.

Bunning, an appointee of George W. Bush and a staunch conservative, said in his order last month that Davis was “openly adopting a policy that promotes her own religious convictions at the expenses of others.” Her right to free speech was not violated because issuing marriage licenses “does not require the county clerk to condone or endorse same-sex marriage on religious or moral grounds.” (See: “Kentucky county official defies court order on gay marriage”)

Davis, elected as a Democrat in 2014, has become a darling in right-wing political circles for her refusal to issue any marriage certificates since the Supreme Court’s June 26 decision in *Obergefell v. Hodges* which struck down various state laws which blocked same-sex marriages.

With the help of lawyers provided by the conservative Liberty Counsel, Davis appealed the order. Last week, the US Court of Appeals for the Sixth Circuit rejected her request for a stay pending appeal. On Monday, the US Supreme Court also denied her request for an emergency stay.

The American Civil Liberties Union of Kentucky, which represents same-sex couples, filed a motion on Tuesday asking Bunning to hold Davis in contempt of court, asking that she incur fines but not face jail time.

Judge Bunning stated Thursday that he did not believe fines alone would deter Davis’ unlawful conduct. Davis will be released from custody when she agrees to comply with the court’s August 12 order, he

said.

Davis’ attorneys made the spurious claim that she ought not be held in contempt, citing legal precedent that a person cannot be held in contempt for failure to do something that is impossible, and, since it was impossible for Davis to believe that marriage was anything other than a union between a man and woman, it was thus impossible for her to issue marriage licenses to same-sex couples. The court rejected this argument.

“It’s not physically impossible for her to issue the licenses; she’s choosing not to” said Bunning.

Underscoring the role of religious bigotry in American politics, Republican presidential candidate and evangelical Christian Mike Huckabee said Wednesday that he had spoken recently with Davis by phone.

“I let her know how proud I am of her for not abandoning her religious convictions and standing strong for religious liberty,” Huckabee said.

Given Davis’ position as an elected official, paid \$80,000 annually, it is entirely possible that she consulted with major figures in the Republican establishment before she used her public office as a political soap box.

For Huckabee, the Republican right, and the ruling class as a whole, stunts like Davis’ serve to whip up the most medieval, anti-Enlightenment sentiments of their evangelical protestant base.

Davis’s ostensible role as the victim of an unrelenting, overreaching, anti-religious federal judiciary fits a definite right-wing narrative that paints Christian fundamentalists as perpetually under siege by a secular, liberal state.

The Davis case is just one of the most recent political provocations by the religious right. It dovetails the move to defund the critical women’s health care

provider Planned Parenthood, the attacks on contraception relating to the ACA, and legal challenges by businesses who argue that “religious liberty” should permit them to discriminate against homosexuals, atheists and others.

While the US Supreme Court has upheld gay marriage, other recent decisions, most notably *Hobby Lobby* and *Town of Greece v. Galloway*, lay the legal groundwork for sustained attacks on the constitutionally enshrined democratic principle of the separation of church and state.

The logic of these cases, and of the attacks on the separation of church and state, turns reality on its head. Far from advocating a government that protects the religious freedom of private citizens, it is asserted that businesses and even public employees have the “freedom” to deprive other citizens of their own constitutional rights, including the right to marry. A more odious and Orwellian perversion of the word “freedom” is hard to conceive.

To be sure, the cultivation of and prostration before the religious right is a bipartisan effort carried out by Democrats and Republicans alike. Not only was Davis elected to office in 2014 as a Democrat, but none other than the anti-gay bigot pastor Rick Warren gave the invocation at President Barack Obama’s first inauguration in January 2009.

Significantly a May 2014 survey found that 80 percent of Americans reject the notion that a small business owner should be able to refuse service to homosexuals on religious grounds.



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