

Building the Resistance to Same-Sex Marriage
(sixteenth in a series of articles)

REFUSAL TO ISSUE A SAME SEX MARRIAGE LICENSE IS A CIVIC DUTY
by Herbert W. Titus & William J. Olson

Rowan County Kentucky Clerk Kim Davis has just [lost](#) her application in the U.S. Supreme Court for a stay of a federal court order requiring her to issue a marriage license to a couple of the same sex. Denial of the stay puts Clerk Davis in a difficult situation. She is being called back before the District Court on Thursday morning to give an account for her behavior. Although the nation's press has portrayed her as lawless, this one courageous lady is standing in the gap, defending the rule of law against judicial tyranny.

As an elected official faced with an obviously illegitimate Supreme Court opinion, in a better time, a President could have explained to the American people why the Fourteenth Amendment has nothing to do with same-sex marriage, and protected her. Failing that, Clerk Davis should have been able to call on her state's Governor to protect her — to interpose between her and the five Justices. However, Democrat Governor Steven Lynn Beshear is demanding she make a choice — either resign, or comply with his lawless instructions to implement the Supreme Court decision sanctifying same sex marriage. The Governor apparently believes in the unconstitutional Doctrine of Judicial Supremacy — that by a stroke of the pen, five elite lawyers wearing black robes can rewrite the Constitution, and that no one may question their decisions. Even worse, the Governor apparently cares nothing about the created order. He has no problem with a Court that had the audacity to try to change the Creator's definition of marriage for all America — by pretending to find the issue hidden in the penumbras and emanations of the Fourteenth Amendment of the Constitution.

Clerk Davis' position is quite different. She stands on God's law and Kentucky's law.

God's law is clear. *See* Genesis 2:18-24; Matthew 19:4-6. And, according to Kentucky law, and notwithstanding the Governor's action unilaterally preempting the authority of the Kentucky legislature, same-sex couples simply are not eligible to obtain a marriage license. Kentucky Constitutional Amendment 1, was passed by 75 percent of the voters in 2004. It states: "Only a marriage between one man and one woman shall be valid or recognized as a marriage in Kentucky. A legal status identical or substantially similar to that of marriage for unmarried individuals shall not be valid or recognized."

Must Clerk Davis conform her practices as Clerk to those of a lawless Supreme Court and a capitulated Governor? Surely not. She cannot turn back now. Having stated that her behavior is constrained by her understanding of God's law, any retreat would do damage to the name and reputation of the Lord. She could resign. But resignation would be the equivalent to admitting that in the wake of the Supreme Court's folly, no Bible-believing Christian or Jew can serve in public office in America. Efforts are already beginning to use the Obergefell decision to remove Christian judges across America.

Clerk Davis is constrained by her civic duty as an elected official in Kentucky, sworn to uphold the Constitution. As a lower civil magistrate, there is only one course of action – to refuse to issue the marriage license to the same-sex couple BECAUSE the federal court order requiring her to issue the license is based upon a wholly illegitimate decision by the U.S. Supreme Court that same-sex couples are constitutionally entitled to marry. Although some have tried to muddy the waters as to her reasons for resisting, this case is not a matter of her conscience or her personal religious scruples. It is about her civic duty as a civil government official. She resists illegality not because her conscience is offended, but rather it is her conscience and religious beliefs that gives her the courage to stand against lawlessness. She is

well aware that she could face the court's sanction for disobedience of a court order, perhaps including civil or criminal contempt of court.

However, Clerk Davis is bound by her oath to support the Kentucky State Constitution, and the United States Constitution – not as perversely and politically “interpreted” by the Supreme Court, or even by the Governor of Kentucky – but as she understands her oath to be. If it were to be otherwise, her oath would not be to support the Constitution, but rather a pledge of fealty to obey a higher government officer no matter how lawless that higher officer may behave.

According to Romans 13:4, Clerk Davis is a minister of God for good, and not for evil. While she is elected by the people, she is to serve the people according to the laws of God and men. As a servant of God, she has no authority to implement a court ruling that is contrary to God's law. According to God's law, two people of the same sex cannot marry, marriage being reserved to only one human relationship, one male and one female in a lifetime committed union. *See Matthew 19:4-5.* As was true for the apostles Peter and John when brought before the Council in Acts 4 and 5, Clerk Davis must obey God not men. Acts 5:29.

Therefore, Clerk Davis cannot resign, and cannot capitulate, but she must resist by interposing herself as a lower civil magistrate sworn to uphold the law, not just to do what a higher civil magistrate has ordered her to do. By resisting, Clerk Davis risks being held in both civil and criminal contempt, fined as well as being forcibly removal from office. But she will be blessed of God for her righteous stand embracing the rule of law, and resisting tyrannical power. And, Clerk Davis' courage just might inspire those in authority to have the courage of what they claim to be their convictions and join in the resistance.

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