

FAITH FRONT PAGE HEALTH POLITICS U.S.

## Kim Davis wins in appeals court

**County clerk was jailed by activist judge over same-sex marriages**



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Kim Davis, the Kentucky county clerk who was jailed for not issuing marriage licenses after the Supreme Court created same-sex marriage, has won an appeals court decision.

She was sued by a same-sex couple that targeted her office after she stopped issuing licenses in 2015. Judge David Bunning ordered her to jail after she

requested a religious accommodation from the state, which she eventually obtained from the state legislature.

Bunning later overruled a magistrate who investigated the case, awarding the lawyers for the same-sex couple hundreds of thousands of dollars in fees, even though they didn't win the suit.

The same-sex couple appealed to the 6th U.S. Circuit Court of Appeals, which ruled in one case, *Miller v. Davis*, the state is liable for the fees, not the county or Davis.

In the *Ermold v. Davis*, the court agreed with Bunning that Davis in her official capacity had sovereign immunity because she acted for the state and not the county.

However, the court ruled that Davis has no qualified immunity as an individual.

But Liberty Counsel said there was no final ruling on whether Davis is liable for damages. The court noted that the case is at a very "early" stage and that no discovery has been conducted.

The legal team said Davis will continue to argue that she is not liable for damages because she was entitled to a religious accommodation, which Gov. Matt Bevin and the legislature granted.

She also contends her actions did not violate clearly established rights.

"The Supreme Court can strike down a law but not rewrite it. As the then-president of the Kentucky Senate argued in an amicus brief, the laws of the Commonwealth on marriage were 'shredded' by the Supreme Court's ruling, and the legislature had to enact new legislation. The duties of a clerk in the area of marriage is governed in every aspect by the laws of the Commonwealth," Liberty Counsel said.

"The court of appeals ruled that the Commonwealth of Kentucky is liable for attorney's fees in the Miller case, not Rowan County, nor Kim Davis," said Mat Staver, founder and chairman of Liberty Counsel. "Even though the court ruled in the Ermold case that Kim Davis has no qualified immunity as an individual, the court also noted that this does not end the case because no discovery on this issue has yet to be conducted.

"Regarding Kim Davis, this case is not over. Kim Davis sought a religious accommodation, and today every Kentucky clerk benefits from her efforts thanks to Governor Matt Bevin and the entire general assembly. I believe Kim Davis will prevail on the individual damages claim."

The When the Supreme Court created same-sex marriage, it did not provide new guidance for county clerks faced with a demand for a marriage license by same-sex couples.

Davis said that's why she stopped issuing licenses licenses altogether and asked for the state to intervene.

But before any resolution could be reached, several same-sex couples bypassed other jurisdictions where they could have obtained licenses to target Davis with lawsuits.

Eventually, the claims became moot when the state legislature changed the law to grant Davis' request for an accommodation for her faith. The only issue that remained was that Bunning overruled a magistrate who investigated the case, awarding the lawyers for the same-sex couples many hundreds of thousands of dollars in fees from taxpayers.

Both of the cases before the 6th Circuit were from same-sex couples who got marriage licenses while Davis was in jail. Liberty Counsel said, however, they "still want to punish Davis."

Bunning, son of baseball Hall of Famer Jim Bunning, was so anxious to rule in favor of the homosexual duos that he didn't wait until he had jurisdiction in the case before holding a hearing, the court filings expose.

Then, even though they were not designated by the magistrate as the "prevailing party," Bunning awarded lawyers for the couples \$231,000.

Davis' lawyers long have contended that the case was not so much about same-sex duos obtaining licenses as it was an attack on Christians.

Her lawyers, at that time, noted a recurring theme in court filings from homosexuals: punish Kim Davis.

Liberty Counsel's Staver said: "It has never really been about a marriage license – Rowan County has issued the licenses – it is about forcing their will on a Christian woman through contempt-of-court charges, jail and monetary sanctions."

The attorneys said then: "The fact is the plaintiffs already possess marriage licenses from Rowan County that have been approved as being valid by the Kentucky governor and Kentucky attorney general. Kim has taken all reasonable steps and good faith efforts to substantially comply with this court's orders."

The evidence indicated the objective of the court cases was not simply to obtain licenses, but to reduce the Constitution's religious rights to a secondary role behind homosexual rights, Liberty Counsel said.