



Written by [Dave Bohon](#) on December 19, 2019

Texas Judge Fighting State for Right to Decline Same-sex “Marriages”

A Texas judge who was reprimanded over her refusal to perform same-sex “marriage” ceremonies has filed a lawsuit against the state for violating her religious liberties.

In early December, McLennan County Justice of the Peace Dianne Hensley, who is a committed Christian, received a public warning from the Texas State Commission on Judicial Conduct over her refusal to perform ceremonies for same-sex couples. As reported by the [Waco Tribune-Herald](#), the “commission said that Hensley violated the portion of the Texas Code of Judicial Conduct that states, ‘A judge shall conduct all of the judge’s extra-judicial activities so that they do not cast reasonable doubt on the judge’s capacity to act impartially as a judge.’”



In its reprimand, the commission declared that Hensley was receiving a public warning for “casting doubt on her capacity to act impartially to persons appearing before her as a judge due to the person’s sexual orientation.”

However, Hensley maintains that as a Christian whose faith is informed by the Bible, she cannot in good conscience perform same-sex “marriage” ceremonies, and under Texas state law is entitled to a religious exemption.

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Hensley has held her office since 2014, one year before a U.S. Supreme Court ruling legalized same-sex “marriage” across the nation. In its warning, the state commission referenced Hensley’s comment, made in a 2017 article for the *Waco Tribune-Herald*, that she “would only do a wedding between a man and a woman.”

The warning also noted that when same-sex couples came to Hensley’s office to be married, her staff would hand them a document stating that “Judge Hensley has a sincerely held religious belief as a Christian, and will not be able to perform any same-sex weddings.”

According to the *Tribune-Herald*, Hensley’s staff would also provide homosexual couples with a list of local ministers and judges who would accommodate them with a ceremony.

Hensley has filed a lawsuit through First Liberty Institute, a Texas-based conservative public-policy law firm, charging that the State Commission on Judicial Conduct “violated the Texas Religious Freedom Restoration Act by investigating and punishing Judge Hensley for recusing herself from officiating at same-sex weddings, in accordance with the commands of her Christian faith. By investigating and



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punishing her for acting in accordance with the commands of her Christian faith, the State of Texas has substantially burdened the free exercise of her religion, with no compelling justification.”

In a media release covering the case, First Liberty noted that “Texas law allows judges to officiate weddings but it does not require them to do so. After the Supreme Court’s *Obergefell* decision in 2015 [legalizing same-sex “marriage”], most judges in Waco and McLennan County stopped performing weddings, forcing residents to travel further and incur greater expenses. To ensure those seeking to be married in McLennan County could be, including same-sex couples, Judge Hensley made arrangements with a local private vendor and her staff to facilitate weddings she, for religious reasons or just because of schedule, could not officiate.”

Jeremy Dys, Special Counsel for Litigation and Communications at First Liberty Institute, said that “for simply trying to reconcile her religious beliefs while meeting the needs of her community — ensuring anyone can get married who wants to be married — the Commission on Judicial Conduct punished” Hensley.

In the lawsuit, Hensley and First Liberty seek a court judgment declaring that a Texas justice of the peace may decline to perform a same-sex ceremony “if the commands of their religious faith forbid them to participate in same-sex marriage ceremonies.”



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