



Written by [Selwyn Duke](#) on September 5, 2015

Kentucky Clerk Kim Davis Jailed: Christians Need Not Apply

“To the distinguished character of Patriot, it should be our highest glory to add the more distinguished character of Christian.” So said the father of our nation and first American president, George Washington, in the 18th century. Now, in the 21st century, the “distinguished character of a Christian” is increasingly considered a disqualification from employment. And Kim Davis (shown), the Rowan County, Kentucky, clerk who has made news recently, is a case in point.



She has just been jailed for acting in accordance with her Christian faith and refusing to issue marriage licenses to same-sex couples.

Writes [CBSDC/AP](#):

“God’s moral law conflicts with my job duties,” Rowan County Clerk Kim Davis told U.S. District Judge David Bunning. “You can’t be separated from something that’s in your heart and in your soul.”

The judge said she left him with no alternative but to jail her, since fines alone would not change her mind.

...“Her good faith belief is simply not a viable defense,” Bunning said, noting that allowing an individual’s beliefs to supersede the court’s authority would set a dangerous precedent.

“I myself have genuinely held religious beliefs,” the judge said, but “I took an oath.”

“Mrs. Davis took an oath,” he added. “Oaths mean things.”

While Judge Bunning is apparently quite sincere — it has been reported he personally opposes faux (same-sex) marriage — there is much more to this case than meets the eye.

First, oaths mean things, but does this include showing obeisance to people who consistently violate their own oaths? That is to say, what of Supreme Court justices’ oaths to uphold the Constitution? They were violated egregiously in the *Obergefell* faux-marriage ruling; moreover, as constitutional scholar Mark Levin pointed out in his book *Men in Black*, the Supreme Court has a long history of unconstitutional rulings — and of contradicting itself.

As for dangerous precedents, what of the dangerous precedent of mindlessly abiding by South Court rulings, no matter how far afield of the Constitution they may be? In *Obergefell*’s wake, Republican governors such as Ohio’s John Kasich mouthed platitudes about complying in the rule of law’s name. And GOP candidates Lindsey Graham and Carly Fiorina [criticized](#) Davis this week on the same basis. But they are confusing the rule of law with the rule of lawyers. Their belief ignores that the courts’ judicial-review power is itself *extra-constitutional*; it wasn’t granted by the Constitution but, a bit like Napoleon crowning himself emperor, was unilaterally declared by the Supreme Court in the 1803



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Marbury v. Madison ruling.

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And we were warned of this precedent long ago. As Thomas Jefferson [wrote](#) in 1819, to give “to the judges the right to decide what laws are constitutional and what not, not only for themselves in their own sphere of action but for the Legislature and Executive also in their spheres” makes “the Judiciary a despotic branch” that acts as “an oligarchy.”

Other Republican candidates, such as Louisiana governor Bobby Jindal and former Arkansas governor Mike Huckabee, [supported](#) Davis on a religious-freedom basis. But talk is cheap. Jindal and other state executives could pursue what Jefferson called the “rightful remedy” for all unconstitutional federal actions and nullify *Obergefell* (refuse to abide by it). Instead, they leave the heavy lifting to a lone Kentucky clerk and make campaign statements.

The reaction to Davis among Democrats was predictable and monolithic; however, Hillary Clinton has, shockingly, changed her position.

Government officials should “uphold the law,” she now says.

As she [wrote](#) in a tweet yesterday, “Officials should be held to their duty to uphold the law — end of story.” This is good advice for the powers-that-be investigating Clinton’s illegal use of a private e-mail server.

Of course, it’s man’s nature to speak of “the law,” as if it’s deific, when it’s serving our ends and goring someone else’s ox. But no moral, thinking person swears blind obedience to it. The antebellum-abolitionist and ‘60s-era civil-rights movements were all about resisting “the law.” And would you have felt compelled to return an escaped slave to his owner in the name of “the law”? Would you have turned a Jew over to the Nazis in 1941 in deference to “the law”? There are many scenarios one could envision, but the point is that, as Augustine of Hippo instructed, “An unjust law is no law at all.”

And as the apocryphal saying [tells us](#), “If a law is unjust, a man is not only right to disobey it, he is obligated to do so.” Judge Bunning may very well be following his conscience (well-formed or not) in jailing Davis, just as she is following hers in accepting jail. But what of the public officials “standing” with Davis? If they believe she’s doing the right thing, wouldn’t it follow that it’s also the right thing for them to resist unconstitutional *Obergefell*? Note here that our nation was founded on a bold act of nullification — of the law of the British Empire.

Whatever you may think about the aforementioned, however, a deeper question is this: What does it say about our nation when secular law is so incongruent with Christian principle that a Christian is sometimes left with the choice of violating conscience or poverty?

Of course, every society has standards that stigmatize certain beliefs and those who hold them. We accept that it’s not a good idea to hire a member of the North American Man-boy Love Association (NAMBLA) as a schoolteacher. An avowed KKK member or Nazi would have trouble finding a high-paying job anywhere. And even an open and “proud” adulterer would find certain employment avenues closed. Closets exist for a reason: Certain things are supposed to be in them.

But now that the West’s traditional closet has been emptied, it’s being filled with traditionalism. There currently are laws protecting cross-dressers from “employment discrimination,” while Christian bakers are told they must become unemployed if they won’t service faux weddings. Regulations mandate that “transgender” students [must be allowed](#) to use the opposite sex’s bathroom, while other students



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sometimes may not even mention Jesus in school. And Christians are told they're "intolerant" merely for expressing their views while secularists are praised as civil-rights activists for openly discriminating against Christians.

Commenting on this climate, Mike Huckabee just posted on Twitter: "Kim Davis in federal custody removes all doubts about the criminalization of Christianity in this country." Of course, one can still be "Christian" in a superficial sense without consequence, and no one is yet shuttering churches. But if you truly want to live the tenets of the faith, your economic opportunities diminish by the day.

A striking example occurred earlier this year, when the California Supreme Court [banned](#) state court judges from belonging to the Boy Scouts merely because, at the time, the organization reflected Christianity in banning open homosexuals from serving as troop leaders. Then there was Rivka Edelman (a nom de plume), an academic targeted last year for opposing homosexual adoption. Referencing the university employing her, a homosexual activist named Scott Rose openly spoke of economic persecution at the blog "Good As You," [writing](#), "And now that editors and English Department Chairs know that [Rivka Edelman] is a vicious anti-LGBT bigot, they have more information for their publishing and hiring decisions. P.S. to Rivka — Rots a Ruck getting your work published in any non-religious, non-bigot publication, now that the world knows that [Rivka] is a malicious, lying, anti-LGBT bigot."

Yet none of this can be called a "dangerous precedent" — because it has happened before. As Lifesite's Jonathon van Maren [related](#) earlier this year:

In Budapest last week ... our tour guide stopped on the steps of the St. Stephan Cathedral to explain how the Hungarian Communists "dealt with" the Christians. It wasn't that you couldn't be a Christian, she said. You could pray at home, worship at home with your family, even get baptized and go to church. However, you had a choice. "You could either be a Christian," she told us, "or you could be successful."

Jesus counseled His disciples, "Lay not up for yourselves treasures upon earth." Increasingly, our culture is ensuring that this is not something about which Christians have to worry.

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