



Written by [Bob Adelman](#) on September 20, 2023

Kentucky County Clerk Kim Davis to Appeal Court Ruling

Two same-sex couples upset that Kim Davis, the former Kentucky clerk who wouldn't issue them marriage licenses back in 2015, sued for damages. One couple, James Yates and William Smith, got nothing. The other couple, David Ernold and David Moore, were awarded \$50,000 each. They claimed that their feelings were hurt when Davis didn't issue them a marriage license. On Thursday, Liberty First, representing Davis, announced they would appeal the damage verdict.

Davis made headlines for standing on her religious conviction that marriage is only between one man and one woman. The fact that the Supreme Court just months earlier had ruled that same-sex marriages must now be recognized didn't faze her. She stood on the ground of her convictions, which were based on the Bible.



AP Images
Kim Davis

For those needing a refresher, Davis was elected Rowan County (Kentucky) Clerk in 2014. The next year, the Supreme Court ruled in *Obergefell v. Hodges* that states must recognize same-sex marriages. Following the ruling, the State of Kentucky demanded that all county clerks, including Davis, start issuing marriage licenses to whomever showed up: same sex, alternate sex, no sex, no matter. Based on her religious convictions, she began denying all marriage licenses in order to avoid issuing one to a same-sex couple.

She, predictably, was sued, and the court ruled against her. She appealed to the Supreme Court, but it was deaf on the matter, having just dealt with it in *Obergefell*.

Still she refused, and spent five days in jail for her convictions. She was released on the condition that she not prohibit other clerks in her office from issuing marriage licenses to same-sex couples.

But that wasn't enough. Claiming that their feelings were hurt, the aforementioned couples sued for damages.

Last week Davis, through her lawyers at Liberty Counsel, announced she would appeal the damage verdict. As the law firm noted:

The *Yates v. Davis* and *Ernold v. Davis* cases each involve a same-sex couple who sued Davis in 2015 following the Supreme Court's *Obergefell v. Hodges* decision regarding "same-sex marriage."

During the trial, two juries heard the same evidence and the same arguments in both cases. In *Yates v. Davis*, the jury awarded zero damages because that is what the evidence required.



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The appeal sets up the opportunity for the Supreme Court to reconsider its *Obergefell* decision. Said Liberty Counsel, “This *Ermold* jury verdict is unsound and easily sets this case up for an eventual route to the U.S. Supreme Court.... *Obergefell* was wrongly decided and should be overturned.”

Liberty Counsel founder Mat Staver is optimistic:

We look forward to appealing this decision for Kim Davis. We will argue religious accommodation under the First Amendment, and other state and federal laws.

We will also argue that *Obergefell v. Hodges* was wrongly decided and should be overturned. Yesterday’s jury verdict has paved the way for this case to go the U.S. Supreme Court.

In the narrow 5-4 decision in *Obergefell*, the Supreme Court in 2015 held that the 14th Amendment’s Due Process Clause “extend[s] to certain personal choices central to individual dignity and autonomy, including intimate choices that define personal identity and beliefs ... [this] includes a fundamental right to marry ... the Constitution grants them that right.”

Constitutionalist Senator Ted Cruz called out the decision as an “overreach,” adding that the issue should properly be left in the hands of the states.

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