



UNITED STATES COMMISSION ON CIVIL RIGHTS

624 NINTH STREET, NW, WASHINGTON, DC 20425

www.usccr.gov

January 26, 2010

VIA FAX & U.S. MAIL

Hugh M. Collins, Ph.D.
Chief Executive Officer
Judiciary Commission of Louisiana
400 Royal Street, Suite 1190
New Orleans, LA 70130-8101

Dear Dr. Collins:

On October 22, 2009, a unanimous panel of the U.S. Commission on Civil Rights wrote to you regarding Tangipahoa Parish justice of the peace Keith Bardwell's refusal to issue marriage licenses to interracial couples. In that letter, we requested notification of any investigation by the Louisiana Judiciary Commission into his conduct and noted that any investigation should properly include an examination of whether any members of the Louisiana judiciary or bar were aware of Bardwell's conduct and, as a result, whether they had a duty to report said conduct to the appropriate authorities under any applicable state or federal laws or local judicial ethics rules. We further requested information regarding any corrective action taken by the Judiciary Commission or sanctions imposed.

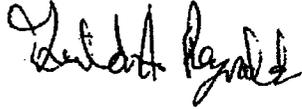
Given the seriousness of the conduct and the clarity and unanimity of the laws implicated by it, we were surprised to receive a letter dated December 4, 2009, from the Louisiana Judiciary Commission's Assistant Counsel, Clare Fiasconaro, stating that as a result of Mr. Bardwell's resignation on November 3, 2009, the Judiciary Commission has no jurisdiction to proceed further in this matter, especially in light of various provisions of the state's Judicial Code of Ethics.

As you are aware, Louisiana's Judicial Code of Ethics treats justices of the peace as "judges" for the purpose of coverage by the code. Canon 3(A)(1) of the code requires that judges be faithful to the law and maintain professional competence in it. Canon (3)(A)(4) requires judges to perform their judicial duties, which would include issuing marriage licenses, "without bias or prejudice" and are prevented from permitting staff, court officials or others subject to their direction or control from performing their duties in a way that is biased or prejudiced. Finally, Canon 3(B)(3) requires judges who may become aware of unprofessional conduct by a judge or lawyer to "take or initiate appropriate disciplinary measures" against such person.

At a minimum, there is evidence that at least one justice of the peace in the state so grossly misunderstood or disregarded basic civil rights law as to render him unfit to discharge the public trust. Statements by Mr. Bardwell indicate that he had denied marriage licenses to interracial couples on more than one occasion. Even if the Judiciary Commission may not have the jurisdiction to proceed further against Mr. Bardwell,

please advise whether and how it might take steps to ensure that similar conduct is not engaged in by other justices of the peace in the state and to ensure that members of the Louisiana judiciary and bar are aware of their legal and ethical duties when they have notice of such conduct.¹

Respectfully,



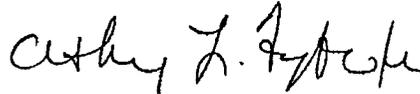
Gerald A. Reynolds
Chairman



Abigail Thernstrom
Vice Chair



Peter N. Kirsanow
Commissioner



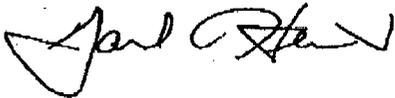
Ashley L. Taylor, Jr.
Commissioner



Michael J. Yaki
Commissioner



Arlan D. Melendez
Commissioner



Gail Heriot
Commissioner



Todd F. Gaziano
Commissioner

¹ The decision to send this letter was arrived at in a public meeting of the United States Commission on Civil Rights on January 15, 2010. The vote was 7-0, with one member not present for the vote. That member has since requested to be added as a signatory.