



SUPREME COURT OF ALABAMA
JUDICIAL BUILDING
300 DEXTER AVENUE
MONTGOMERY, ALABAMA 36104-3741
(334) 229-0700

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TOMMY ELIAS BRYAN

January 27, 2015

Hon. Robert Bentley
Governor of Alabama
State Capitol
600 Dexter Avenue
Montgomery, Alabama 36130

Dear Governor Bentley:

The recent ruling of Judge Callie Granade of the United States District Court for the Southern District of Alabama has raised serious, legitimate concerns about the propriety of federal court jurisdiction over the Alabama Sanctity of Marriage Amendment. Art. I, § 36.03, Ala. Const. of 1901.

As you know, nothing in the United States Constitution grants the federal government the authority to redefine the institution of marriage. The people of this state have specifically recognized in our Constitution that marriage is "[a] sacred covenant, solemnized between a man and a woman"; that "[a] marriage contracted between individuals of the same sex is invalid in this state"; and that "[a] union replicating marriage of or between persons of the same sex . . . shall be considered and treated in all respects as having no legal force or effect in this state." Art. I, § 36.03(c), (b) & (g), Ala. Const. of 1901.

The Supreme Court of Alabama has likewise described marriage as "a divine institution," imposing upon the parties "higher moral and religious obligations than those imposed by any mere human institution or government." *Hughes v. Hughes*, 44 Ala. 698, 703 (1870). In *Smith v. Smith*, 141 Ala. 590, 592, 37 So. 638, 639 (1904), this Court again referred to marriage as a "sacred relation."

The laws of this state have always recognized the Biblical admonition stated by our Lord:

But from the beginning of the creation God made them male and female. For this cause shall a man leave father and mother, and cleave

to his wife; And they twain shall be one flesh: so then they are no more twain, but one flesh. What therefore God hath joined together, let not man put asunder. (Mark 10:6-9).

Even the United States Supreme Court has repeatedly recognized that the basic foundation of marriage and family upon which our Country rests is "the union for life of one man and one woman in the holy estate of matrimony; the sure foundation of all that is stable and noble in our civilization; the best guaranty of that reverent morality which is the source of all beneficent progress in social and political improvement." *Murphy v. Ramsey*, 114 U.S. 15, 45 (1885) (quoted in *United States v. Bitty*, 208 U.S. 393, 401 (1908)).

Today the destruction of that institution is upon us by federal courts using specious pretexts based on the Equal Protection, Due Process, and Full Faith and Credit Clauses of the United States Constitution. As of this date, 44 federal courts have imposed by judicial fiat same-sex marriages in 21 states of the Union, overturning the express will of the people in those states. If we are to preserve that "reverent morality which is our source of all beneficent progress in social and political improvement," then we must act to oppose such tyranny!

On December 26, 1825, Thomas Jefferson wrote:

I see as you do, and with the deepest affliction, the rapid strides with which the federal branch of our government is advancing towards the usurpation of all the rights reserved to the States, and the consolidation in itself of all powers foreign and domestic; and that too, by constructions which, if legitimate, leave no limits to their power. Take together the decisions of the federal court, the doctrines of the President, and the misconstructions of the constitutional compact [U.S. Constitution], acted on by the legislature of the federal branch, and it is but too evident, that the three ruling branches of that department are in combination to strip their colleagues, the State authorities, of the powers reserved by them, and to exercise themselves, all functions foreign and domestic.

Letter to William Branch Giles, December 26, 1825 (emphasis added).

Jefferson's words precisely express my sentiments on this occasion. Our State Constitution and our morality are under attack by a federal court decision that has no basis in the Constitution of the United States. Nothing in the United States Constitution grants to the federal government the authority to desecrate the institution of marriage. Indeed, the Tenth Amendment states: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states,

are reserved to the states respectively, or to the people." U.S. Const. Amend. X. An infringement upon the definition of marriage affects all that have entered into it in the past as well as all who will enter in the future.

I am encouraged by the Alabama Probate Judges Association which has advised probate judges to follow Alabama law in refusing to license marriages between two members of the same sex. However, I am dismayed by those judges in our state who have stated they will recognize and unilaterally enforce a federal court decision which does not bind them. I would advise them that the issuance of such licenses would be in defiance of the laws and Constitution of Alabama. Moreover, I note that "United States district court decisions are not controlling authority in this Court." *DolgenCorp, Inc. v. Taylor*, 28 So. 3d 737, 744 n.5 (Ala. 2009). See also *Ex parte Johnson*, 993 So. 2d 875, 886 (Ala. 2008) ("This Court is not bound by decisions of the United States Courts of Appeals or the United States District Courts."). As Chief Justice of the Alabama Supreme Court, I will continue to recognize the Alabama Constitution and the will of the people overwhelmingly expressed in the Sanctity of Marriage Amendment.

I ask you to continue to uphold and support the Alabama Constitution with respect to marriage, both for the welfare of this state and for our posterity. Be advised that I stand with you to stop judicial tyranny and any unlawful opinions issued without constitutional authority.

With due respect to your authority and responsibility as Governor and Chief Executive of the State of Alabama, I am

Sincerely,

A handwritten signature in black ink, appearing to read "Roy S. Moore". The signature is stylized and cursive.

Roy S. Moore
Chief Justice
Alabama Supreme Court