



## **Kim Davis' defenders are missing the point**

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Kim Davis isn't fighting for religious liberty. She's fighting to get paid for a job she's not doing.

The Kentucky clerk made headlines this week for refusing to give marriage licenses to same-sex couples in Kentucky, despite the Supreme Court decision requiring her to do so. Yesterday, Davis went to jail for contempt of court after ignoring an order to begin issuing licenses.

Social conservatives are up in arms, led by Mike Huckabee who's proclaiming how Davis' "federal custody removes all doubts about the criminalization of Christianity in this country."

But Davis is no martyr. The governor of Kentucky offered her a choice: either issue same-sex marriage licenses or resign. She refused. Then the court ordered her to start issuing the licenses, since it is, you know, federal law. She refused. Because she did the opposite of what a judge ordered her to do, she unsurprisingly was charged with contempt of court, a well-known feature of legal system.

Let's get one thing straight: Davis is not being indefinitely detained in Guantanamo Bay without trial. Whenever she changes her mind about issuing licenses or decides she'd rather resign, she can leave. As Cato legal scholar Walter Olson explains, "[Davis] is not in jail for refusing to violate her religion, unless her religion requires her to keep her public job."

If Kim Davis were a pastor, I would defend her right to marry (or not marry) whoever she wanted as a private citizen. But Davis isn't a church leader, a baker, or a wedding photographer. She's a government employee. As such, she waives her private right to refuse service to same-sex couples since the law no longer defends state-sponsored discrimination.

Let me ask this: if Davis were a border patrol agent who refused to detain undocumented immigrants because her religious beliefs opposed deportation, would conservatives be so quick to defend her? If Davis were a soldier who joined the military in peacetime and then claimed to be a conscientious objector once war broke out, would conservatives rush to her defense?

It's time for some intellectual honesty about what's going on here. Social conservatives don't get to demand that government employees zealously uphold law and order at the border or in the

inner city while cheering those who flout it in Kentucky. No matter what you think about marriage, that basic hypocrisy should be clear.