



UNITED STATES COMMISSION ON CIVIL RIGHTS

624 NINTH STREET, NW, WASHINGTON, DC 20425

www.usccr.gov

October 22, 2009

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:

It is a sad day indeed when we find ourselves, in the year 2009, compelled to write to you about news articles that suggest one of Louisiana's judicial officers has engaged in invidious racial discrimination of the kind that was declared unconstitutional over forty years ago. We are referring, of course, to recent media accounts of the refusal by a Tangipahoa Parish justice of the peace—Keith Bardwell—to issue a marriage license to an interracial couple.¹

In an interview with the Associated Press, Bardwell explained his denial by stating, "I just don't believe in mixing the races that way." In a separate interview with the *Hammond Daily Star Online*, Bardwell called interracial couples consisting of a black man and a white woman "confusing" and cited a concern for the children of interracial marriages—"I don't do interracial marriages because I don't want to put children in a situation they didn't bring on themselves. In my heart, I feel the children will later suffer." He further admitted in those interviews to having denied marriage licenses to at least four other interracial couples over the past two-and-a-half years.

In the seminal case, *Loving v. Virginia*, 388 U.S. 1 (1967), the U.S. Supreme Court struck down all legal restrictions on the ability of men and women of different races to marry one another. Interracial marriages now constitute some 5.5%² of all marriages in the United States, and there are now approximately 3.4 million biracial children in the country.³ The President and Commander in Chief of the United States is biracial. In the face of such long-established and clear legal precedent and assuming

¹ See e.g., Don Ellzey, *JP refuses to marry couple*, HAMMOND DAILY STAR ONLINE, Oct. 15, 2009, available at: http://www.hammondstar.com/articles/2009/10/15/top_stories/8847.txt; Mary Foster, *Interracial couple denied marriage license in La.*, YAHOO!NEWS, Oct. 15, 2009, available at: http://news.yahoo.com/s/ap/20091015/ap_on_re_us/us_interracial_rebuff/print; Samira Simone, *Interracial couple in Louisiana denied marriage license*, CNN.COM INTERNATIONAL, Oct. 15, 2009, available at: <http://edition.cnn.com/2009/US/10/16/louisiana.interracial.marriage/>.

² See MICHAEL J. ROSENFELD, *THE AGE OF INDEPENDENCE: INTERRACIAL UNIONS, SAME-SEX UNIONS AND THE CHANGING AMERICAN FAMILY* (Harvard University Press) (2007). The data behind Rosenfeld's figure is available at http://www.stanford.edu/~mrosenfe/Rosenfeld_pct_interracial.xls.

³ U.S. CENSUS BUREAU, 2008 AMERICAN COMMUNITY SURVEY, http://factfinder.census.gov/servlet/DTTTable?_bm=y&-state=dt&-ds_name=ACS_2008_1YR_G00_&-CONTEXT=dt&-mt_name=ACS_2008_1YR_G2000_B01001G&-redoLog=false&-geo_id=01000US&-format=&-lang=en (last accessed Oct. 22, 2009).

the news accounts are accurate, it is surprising that the Judiciary Commission of Louisiana would permit Bardwell's repeated and continuing denial of marriage licenses to interracial couples.

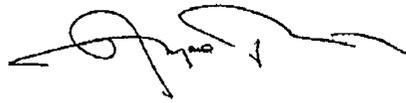
Justices of the peace are officers elected to discharge the public trust. They are bound by the same constitutions and laws as all courts and judges in the state. *In Re Justice of the Peace Franklin*, 969 So.2d 591, 600 (La. 2007). Thus, they are bound not just by the Louisiana Constitution and state law, but also the commands of the U.S. Constitution's Fourteenth Amendment and various federal anti-discrimination laws. U.S. CONST. art. VI, cl. 2 ("This Constitution, and the Laws of the United States . . . shall be the supreme law of the Land; and the Judges in every State shall be bound thereby . . ."). They are charged with faithfully applying those laws as written by the legislature and construed by the various courts. *Franklin*, 969 So.2d at 600. A justice of the peace's lack of legal training does not absolve him or her from the requirement to know and understand the law, or of the responsibility to follow the rule of law. *Id.*

We therefore request that the Judiciary Commission of Louisiana notify us if it will conduct an investigation into Bardwell's conduct to determine whether he violated state and federal law, as well as the Louisiana Canons of Judicial Conduct. In the course of any investigation into this matter, we respectfully request that the Judiciary Commission examine whether any members of the Louisiana judiciary or bar were aware of Bardwell's conduct and whether they had a duty to report said conduct to the appropriate authorities under state and federal law, the Louisiana Canons of Judicial Conduct, or any other ethical requirement applicable to officers of the court. Finally, to assist us in determining whether any further inquiry or referral by the Commission is warranted, we also request that the Judiciary Commission notify us promptly of any appropriate corrective action taken or sanctions imposed.

Respectfully,



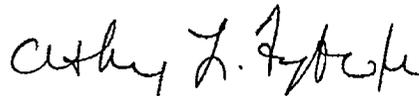
Gerald A. Reynolds
Chairman



Abigail Thernstrom
Vice Chair



Peter N. Kirsanow
Commissioner



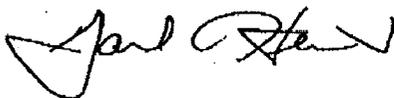
Ashley L. Taylor, Jr.
Commissioner



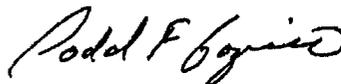
Michael J. Yaki
Commissioner



Arlan D. Melendez
Commissioner



Gail Heriot
Commissioner



Todd F. Gaziano
Commissioner