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"Oregon Person of the Year" may be a judge who declined to perform same-sex weddings

(December 27, 2015)—Earlier this month, Portland's *Oregonian* newspaper invited its readers to vote for "the 2015 Oregon Person of the Year," and when the ballots were counted last Sunday, the field of candidates had been narrowed to ten. Near the top of the list was a Circuit Court Judge named Vance Day, and the reason he's on the list is that he's become a hero to Oregonians whose views on same sex marriage were steamrolled by the federal courts. *Oregonian* readers have been voting online to select a winner from among the top ten, and the deadline is today, December 27.

Oregon may seem an unlikely place for pushback against the notion that since the Supreme Court's same-sex-marriage decision last June, those who doubt the wisdom of the decision should fall into line and never, ever do or say anything that would express those doubts in any way.

But Oregon's deep blue political and legal establishment may have gone too far even for a state which ranks as the fifth most liberal state in the Union (Gallup Poll).

Last month, the Oregon Commission on Fitness and Disability held two weeks of hearings on a complaint against Circuit Court Judge Vance Day. Their principal charge? His having (quietly) declined to perform same-sex-marriages.

Circuit judges in Oregon are not required to perform marriages; it's *not a part of their official responsibilities*. They *may* perform marriages and many, but not all, do. After a federal court ruling in favor of same sex marriages several years ago, Judge Day simply asked his staff to politely refer any calls asking him to preside at such a marriage to other judges on the court who are perfectly willing to preside at such ceremonies. Last year, Day stopped performing marriages altogether.

Nevertheless, on June 23, 2015 the Commission staff issued a complaint which claimed that by declining to perform same sex marriages, Judge Day had demonstrated "bias," and had violated the Oregon Constitution.

The charge is particularly ironic, since that same Constitution contained an amendment approved by 57 percent of the state's voters in 2004: "It is the policy of Oregon, and its political subdivisions, that only a marriage between one man and one woman shall be valid or legally recognized as a marriage." That was the constitutional law of Oregon

when Judge Day was sworn into office in September 2011, and remained the foundational law of the state until a federal judge declared it invalid in 2014.

In other words, in the span of barely a year and a half, Oregon has gone from requiring that marriages be limited to opposite sex couples, to an attempt to discipline a judge for simply declining to perform same sex weddings he was not required to perform in the first place.

When the Commission charges became public in September, Judge Day (who had made no public statement of any sort on the subject until then) defended his position in several media interviews, the most thorough of which appeared in the *Oregonian* on October 9, 2015: http://www.oregonlive.com/faith/2015/10/vance_day_profile.html

Simply stated, Day is an evangelical Christian, and presiding over a same sex wedding would have been at serious odds with his deeply held religious beliefs. He has the same Free Exercise and Free Speech rights under the First Amendment as anyone else. There are many in Oregon who heartily agree. Whether or not he becomes the *Oregonian's* 2015 Person of the Year, he has the strong support of a great many who believe that the decision to single him out as a warning to any who dare to express doubts about the wisdom of America's headlong rush to embrace same-sex marriage.

Additional links of interest:

<https://defendjudgeday.com/>

<http://www.nationalreview.com/article/423878/same-sex-marriage-judge-vance-day-kim-davis>

For additional information on the case, including court documents and links to other coverage, contact Pat Korten at patrick.korten@kortenmedia.com or at 703-430-8105.