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Justice Roy Moore strikes a major blow against judicial tyranny

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Wednesday, January 28, 2015



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The U.S. Constitution gives no jurisdiction whatsoever to any branch of the federal government to dictate marriage policy to the states. That's the argument Roy Moore is making – and he's on solid constitutional grounds in doing so.

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Chief Justice Roy Moore of the Alabama Supreme Court has taken a stand against judicial tyranny on the matter of natural marriage. And strikingly and importantly, he has called on the governor of Alabama to do the same.

Last Friday, another judicial activist, U.S. District Judge Callie Granade, overturned Alabama's marriage amendment, which was passed in 2006 by a staggering 81 percent of voters. (The judge has stayed her own ruling for two weeks.)

Justice Moore says he will not recognize the federal court ruling, and he is calling on Gov. Robert Bentley to do the same. And the beauty of it is that he is doing it all on solid constitutional grounds.

In Justice Moore's letter to the governor (which you can read here) he states the constitutional and legal facts plainly and correctly. The Constitution, he says bluntly, gives no jurisdiction whatsoever to any branch of the federal government to dictate marriage policy to the states.

"As you know," Judge Moore wrote, "nothing in the United States Constitution grants the federal government the authority to redefine the institution of marriage." This, of course, is manifestly true. The authority to dictate marriage policy to the states is conspicuously absent from the list of powers "We the People" granted to the central government in Article I, Section 8.

In fact, the word "marriage" does not occur anywhere in the Constitution. You can read it front to back, back to front, upside down and in Sanskrit and you will find nary a mention of marriage anywhere in there, including the 14th Amendment, which was about slavery, not marriage. (On top of that, homosexual conduct was a crime everywhere in the United States at the time the 14th Amendment was enacted.)

All this means is that the issue of the definition of marriage is reserved, as Justice Moore correctly observes, to the states and the states alone.

"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," Moore wrote.

Here's how Justice Moore concludes his letter to the governor: "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."

Moore points out that 44 federal judges have already imposed their own view of morality on 21 states against the manifest will of the people as expressed at the ballot box, disenfranchising millions of voters in the process. The key to breaking the power of this out-of-control judicial tyranny is in the hands of our elected officials at the state level.

State justices can, as Justice Moore has done, defy unconstitutional federal rulings which have overturned marriage amendments. Governors, such as Gov. Bentley, can defy unconstitutional federal rulings by forbidding county clerks to issue marriage licenses which would be in violation of the state constitution. (First Amendment law firms such as the Alliance Defending Freedom have pledged to defend pro bono any clerks who refuse to issue same-sex licenses on grounds of conscience.)

Such actions would most emphatically not represent civil disobedience, but rather the best in civil obedience. An elected official can hardly be charged with rebellion when he is simply fulfilling the oath he took before God to uphold both the federal Constitution and the constitution of his own state.

What Justice Moore is advocating is not rebellion at all, but a call to quash the rebellion which has already occurred, the rebellion of federal judges against the limits imposed on them by our supreme legal document. With regard to federal judges, it is time, in Jefferson's words, "to bind (them) down from mischief by the chains of the Constitution." Justice Roy Moore is showing us how. May his tribe increase.

Bryan Fischer hosts "Focal Point with Bryan Fischer" every weekday on AFR Talk (American Family Radio) from 1:00 - 3:00 p.m. (Central).

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