

Lambda Legal Defense and Education Fund, Inc. and Equality Mississippi hereby file this ethics complaint against George County Justice Court Judge Connie Glenn Wilkerson. Lambda Legal is an organization that currently represents lesbian parents and other litigants before Mississippi judges, and that will continue to represent lesbian, gay, bisexual and transgender (LGBT) clients in Mississippi courts. Equality Mississippi is an organization dedicated to working to advance the cause of full equality and civil rights for all members of the Mississippi LGBT community.

Judge Wilkerson has violated his ethical duties as set forth in Canons 1, 2, 3, 4, 5, and 7 of the Mississippi Code of Judicial Conduct by two separate actions. First, Judge Wilkerson wrote a letter to the editor of the *George County Times*, published March 28, 2002, in which he publicly stated that gay and lesbian people belong in mental institutions, advocated a position against legislation that advances civil rights for lesbian and gay people, and further stated that those elected officials who support such legislation and citizens who vote for said officials “have to stand in the judgment of GOD.” Second, on April 9, 2002, Judge Wilkerson stated, in an interview with *Mississippi Public Radio*, that gay and lesbian people are “sick.”

The full text of Judge Wilkerson’s letter to the editor reads:

Dear Editor:

I got sick on my stomach today as I read the (AP) news story on the Dog attack on the front page of THE MISSISSIPPI PRESS and had to respond! AMERICA IS IN TROUBLE!

I never thought that we would see the day when such would be here in AMERICA.

The last verse of chapter one of the book of Romans in our HOLY BIBLE is my reason for responding and sounding the alarm to this. You need to know as I know that God in Heaven is not pleased with this, and I am sounding the alarm that I, for one, am against it and want our LORD to see and hear me say I am against it.

I am sorry that the California Legislature enacted a law granting gay partners the same right to sue as spouses or family members. Also, that Hawaii and Vermont have enacted such a law, too.

In my opinion, gays and lesbians should be put in some type of a mental institute instead of having a law like this passed for them.

I don’t know, but I believe if we vote for folks that are for this we

have to stand in the judgment of GOD the same as them.

I am thank ful for our Legislators and pray for wisdom for them, on such unbelievable legislation as this. May GOD bless each one of them in JESUS CHRIST's name I pray!

Thank you for printing this.  
Connie Glenn Wilkerson

As discussed below, these public statements fly in the face of the Mississippi Code of Judicial Conduct. The Code has long prohibited conducts and advocacy by judges that calls the impartiality of the judiciary into question. There has never been any basis under the Code upon which a judge might decide that some class of citizens is not entitled to the benefits of an impartial judiciary. The Mississippi Supreme Court has recently reiterated that point by formally amending the Code to prohibit judges from expressing bias based on race, gender, religion, *sexual orientation* and numerous other characteristics. *See* Commentary to Canon 4(A). The Mississippi Supreme Court has emphasized the importance of ensuring that all litigants receive fair and respectful treatment from justice court judges such as Judge Wilkerson:

"There are good reasons why our justice court judges must regard scrupulously the nature of their office. In the first place, most of our citizens have their primary, if not their only, direct contact with the law through the office of the justice court judge. [citation] The perception of justice of most of our citizens is forged out of their experiences with our justice court judges. If these judges do not behave with judicial temperament and perform their duties according to the law and by reference to the process of adjudication, there seems little hope that our citizenry at large may understand and respect the legal process."

*Mississippi Comm'n on Judicial Performance v. Spencer*, 725 So.2d 171, 179 (1998)

#### **A. Judge Wilkerson's Letter to Editor of George County Times (March 28, 2002)**

Judge Wilkerson's letter to the editor of the *George County Times* violated numerous provisions of the Mississippi Code of Judicial Conduct.

First, Judge Wilkerson's inflammatory and prejudicial letter to the *George County Times* has undermined both public confidence in the impartiality and integrity of the judiciary and the dignity of Judge Wilkerson's judicial office, in violation of Canons 1, 2 and 5 of the Code of Judicial Conduct.

Canon 1<sup>1</sup> provides, “An independent and honorable judiciary is indispensable to justice in our society.” Canon 1 further provides that a judge “should himself observe high standards of conduct so that the integrity and independence of the judiciary may be preserved.” Canon 2<sup>2</sup> provides that a judge “. . . should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” And then-applicable Canon 5<sup>3</sup> provides that a judge may engage in “avocational activities” such as writing only “if such avocational activities do not detract from the dignity of his office . . .” Rather than observing high standards of conduct that promote public confidence in the impartiality and dignity of the judiciary, Judge Wilkerson’s intemperate public attack on lesbian and gay people makes clear that he is not an impartial judge, thus weakening the dignity of the Mississippi judiciary and public confidence in it.

Second, Judge Wilkerson engaged in political activity inappropriate to his judicial office by publicly taking a position on civil rights legislation for lesbian and gay people and further stating that elected officials who support such legislation and those who vote for said elected officials will face “the judgment of GOD.”<sup>4</sup> This violates Canon 7<sup>5</sup> of the Code of Judicial Conduct (as applicable at the time), which provides that “[a] judge should not engage in any other political

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<sup>1</sup> “A Judge Shall Uphold the Integrity and Independence of the Judiciary.”

<sup>2</sup> “A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All Activities.”

<sup>3</sup> “A Judge Should Regulate His Extra-Judicial Activities to Minimize the Risk of Conflict With His Judicial Duties.”

<sup>4</sup> Judge Wilkerson stated that his motive for writing the letter is the “last verse of chapter one one of the book of Romans in our HOLY BIBLE.” The conclusion of the first chapter of Romans is:

1:26For this reason, God gave them up to vile passions. For their women changed the natural function into that which is against nature. 1:27Likewise also the men, leaving the natural function of the woman, burned in their lust toward one another, men doing what is inappropriate with men, and receiving in themselves the due penalty of their error. 1:28Even as they refused to have God in their knowledge, God gave them up to a reprobate mind, to do those things which are not fitting; 1:29being filled with all unrighteousness, sexual immorality, wickedness, covetousness, maliciousness; full of envy, murder, strife, deceit, evil habits, secret slanderers, 1:30backbiters, hateful to God, insolent, haughty, boastful, inventors of evil things, disobedient to parents, 1:31without understanding, covenant-breakers, without natural affection, unforgiving, unmerciful; 1:32who, knowing the ordinance of God, that those who practice such things are worthy of death, not only do the same, but also approve of those who practice them.

<sup>5</sup> “A Judge Should Refrain From Political Activity Inappropriate to His Judicial Office.”

activity except on behalf of measures to improve the law, the legal system, or the administration of justice.” Clearly, publicly opposing civil rights legislation and public officials who support such legislation does not fit the limited circumstances in which a judge may engage in political activity.

Third, Judge Wilkerson’s public statement that all lesbian and gay people “should be put in some type of a mental institute” strongly suggests that any lesbian or gay litigant will face “personal bias” and “prejudice” in his courtroom. This would violate Canon 3 of the Code of Judicial Conduct,<sup>6</sup> which provides that “personal bias or prejudice concerning a party” disqualifies a judge.

## **B. Judge Wilkerson’s Statement to Mississippi Public Radio (April 9, 2002)**

After a long process of review and consultation, the Code of Judicial Conduct was formally amended by the Mississippi Supreme Court on April 4, 2002. While many of the Canons were undisturbed, the amendments to the Code, among other things, take the additional step of explicitly stating that expressions of judicial bias based on sexual orientation and other characteristics are prohibited. The relevant portions of Canons 1, 2 and 3 were preserved, and each is violated by Judge Wilkerson’s April 9 public statement to *Mississippi Public Radio* characterizing all gay and lesbian people as “sick,” for the same reasons that they were violated by his earlier letter to the *George County Times*.

In addition, Judge Wilkerson’s April 9 clearly violates the newly revised Canon 4.<sup>7</sup> Revised Canon 4(A) provides that “[a] judge shall conduct all of the judge’s extra-judicial activities so that they do not: (1) cast reasonable doubt on the judge’s capacity to act impartially as a judge; (2) demean the judicial office; or (3) interfere with the proper performance of judicial duties.” Importantly, the official Commentary to Canon 4(A) explains:

“... Expressions of bias or prejudice by a judge, even outside the judge’s judicial activities, may cast reasonable doubt on the judge’s capacity to act impartially as a judge. Expressions which may do so include jokes or other remarks demeaning individuals on the basis of their race, gender, religion, national origin, disability, age, sexual orientation or socioeconomic status.”

By declaring on *Mississippi Public Radio* that all gays and lesbians are “sick,” Judge Wilkerson cast doubt on his capacity to act impartially as a judge, demeaned his judicial office,

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<sup>6</sup> “A Judge Should Regulate His Extra-Judicial Activities to Minimize the Risk of Conflict With His Judicial Duties.”

<sup>7</sup> “A Judge Shall So Conduct the Judge’s Extra-judicial Activities as to Minimize the Risk of Conflict with Judicial Obligations.”

expressed bias and prejudice based on sexual orientation, and demeaned all lesbians and gay men.<sup>8</sup>

For all of these reasons, Lambda Legal and Equality Mississippi file this complaint to ensure that all litigants in Mississippi can be confident that they will have their fair day in court. We respectfully request that the Commission fully investigate this complaint and take all appropriate action.

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<sup>8</sup> Mental health professionals have emphatically asserted for decades that homosexuality is not a mental illness:

“The research on homosexuality is very clear. Homosexuality is neither mental illness nor moral depravity. It is simply the way a minority of our population expresses human love and sexuality. Study after study documents the mental health of gay men and lesbians. Studies of judgment, stability, reliability, and social and vocational adaptiveness all show that gay men and lesbians function every bit as well as heterosexuals.” January 26, 1990 Statement of Bryant Welch, JD, Ph.D., Executive Director for Professional Practice with the APA

“Psychologists, psychiatrists and other mental health professionals agree that homosexuality is not an illness, mental disorder or emotional problem. . . . In 1973 the American Psychiatric Association confirmed the importance of the new research by removing the term 'homosexuality' from the official manual that list all mental and emotional disorders. In 1975 the American Psychological Association passed a resolution supporting this action. Both associations urge all mental health professionals to help dispel the stigma of mental illness that some people still associate with homosexual orientation. Since original declassification of homosexuality as a mental disorder, this decision has subsequently been reaffirmed by additional research findings and both associations.” American Psychological Association, “Answers to Your Questions About Sexual Orientation and Homosexuality”