

August 27, 2019

Board of Professional Responsibility
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II. Introduction

We write to lodge a complaint against District Attorney Charles Craig Northcott of Coffee County, Tennessee (“DA Northcott”) for violating Rule 8.4(d) and Rule 3.8, Comment 1 of the Tennessee Rules of Professional Responsibility. *See* Tenn. Sup. Ct. R. 8, RPC § 8.4(d), § 3.8. This complaint arises from public statements made on March 13, 2018 at the 2018 Chafer Theological Seminary Bible Conference during a presentation titled “The Local Church’s Role in Government.” Therein, DA Northcott stated that his religious beliefs motivate him to charge defendants with simple assault for domestic violence offenses occurring in marriages of same-sex couples but where the domestic violence offenses involve married different-sex couples, he charges the defendant with domestic assault. He also stated that he would not prosecute county clerks for denying marriage licenses to same-sex couples if that issue came before his office. DA Northcott knowingly considers the sexual orientation of the parties in deciding which charges to bring, illustrating that DA Northcott is incapable of distinguishing his personal beliefs from his professional obligations under Rule 8.4(d). He willfully chooses not to apply the law equally to people based on their sexual orientation and thus engages in conduct that is prejudicial to the administration of justice. Additionally, his comments and association with the Chafer Theological Seminary Conference demonstrate the appearance of partiality, lessening the public’s faith in his ability to make unbiased prosecutorial decisions. Complainants request that the Board of Professional Responsibility investigate DA Northcott and seek his disbarment from practicing law in the state of Tennessee or other appropriate disciplinary action.

Complainant Tennessee Equality Project (“TEP”) advocates for the equal rights of lesbian, gay, bisexual, transgender, and queer (“LGBTQ”) people in Tennessee through legislative advocacy. TEP also works with the business community to promote LGBTQ rights in the workplace and in places of public accommodations.

Complainant Domestic Violence & Sexual Assault Center provides the citizens of Rutherford County, Tennessee, a county adjacent to Coffee County, Tennessee, with the resources and assistance necessary to effectively deal with the personal, social, and legal implications of victimization by domestic violence and sexual assault. Their mission is simple: to protect victims, prevent violence, and empower survivors. They advocate for all victims of domestic violence, sexual assault, or stalking regardless of race, color, national origin, religion (including religious belief), sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status or socio economic status.

Complainant Lambda Legal Defense and Education Fund, Inc. (“Lambda Legal”) is the oldest and largest national legal organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender (“LGBT”) people, and everyone living with HIV through impact litigation, education, and public policy work. Lambda Legal seeks to advance and protect the rights of LGBT people including access to the courts and the fair administration of justice.

III. Statement of Facts

District Attorney Northcott is the duly elected district attorney for Coffee County, Tennessee. In this position DA Northcott is responsible for prosecuting all violations of the state criminal statutes within Coffee County, among other duties statutorily assigned. T. C. A. § 8-7-103.

On March 13, 2018, DA Northcott led a presentation at the Chafer Theological Seminary Bible Conference titled “The Local Church’s Role in Government” (See Exhibit 1) (the “Presentation”).¹ In the Presentation, DA Northcott stated that he charges defendants with simple assault when a domestic violence incident is between a married same-sex couple, rather than domestic assault, as he charges defendants in different-sex couple, thereby opting for a lesser charge with reduced punishment implications, and stripping lesbian, gay, and bisexual (“LGB”) victims of protections afforded under the elevated charge of domestic assault. DA Northcott justified his stance by claiming that “the reason that there’s enhanced punishment on domestic violence is to recognize and protect the sanctity of marriage. And I said, there’s no marriage to protect [referring to marriages of same-sex couples].” In his own words, DA Northcott described the discriminatory calculus he makes when making decisions pertaining to LGB people and their families. DA Northcott explained how he knowingly weighs the implications of both charges, stating “One hand, I don’t prosecute them because I don’t recognize it as marriage, on the other hand, if I don’t prosecute them, then the sinner, the immoral guy, gets less punishment. What do you do?”

Additionally, DA Northcott claimed that he would decline to prosecute county clerks who deny marriage licenses to same-sex couples. When addressing this issue in the Presentation, DA Northcott’s “advice” to the clerk would be to not “succumb” to the rule of law, and to “stand on god’s truth.” DA Northcott explains that to “stand on god’s truth” means that a clerk should deny the couple a marriage license regardless of the potential repercussions or professional reprimand. Indeed, DA Northcott’s comments imply that he would encourage such clerks to neglect their professional duties; he stated that he would “pat [the clerk] on the back, give [the clerk] hugs” instead of holding them accountable by law. DA

¹ See, *InTheGripOfTheLamb, 08 – 2018 CTA – Craig Northcott – The Local Church’s Role in Government*, YouTube (Mar. 13, 2018), https://www.youtube.com/watch?v=_DRZ14A_QYI&t=909s

Northcott's encouragement of city officials to reject the rights of LGB people in their professional capacities, and the indication that he would decline to discipline such officials for neglecting their responsibilities suggests that DA Northcott's conduct is prejudicial to the administration of justice. He further asserted that his particular religious beliefs should be embodied by prosecutors by stating that "to deal with [the aforementioned situation], you elect a good Christian man as DA."

At the conclusion of the Presentation, DA Northcott stated that these examples are simply "one of many" instances where his charging decisions have been based on his personal biases against certain classes of people. These remarks demonstrate a willfulness of discriminatory intent. As such, they constitute a blatant violation of Rule 8.4(d) and Rule 3.8, and of his prescribed role as the Coffee County District Attorney.

IV. Violations of Tennessee Rules of Professional Responsibility

In making the aforementioned statements, DA Northcott has violated and appears to be continuing to violate Rule 8.4(d) of the Tennessee Rules of Professional Responsibility and Rule 3.8 Comment [1] – Abuse of Prosecutorial Discretion.

A. DA Northcott's Violation of Rule 8.4(d) – Engaging in Conduct that is Prejudicial to the Administration of Justice

Rule 8.4(d) states that a lawyer has committed professional misconduct when the lawyer engages "in conduct that is prejudicial to the administration of justice." Tenn. Sup. Ct. R. 8, § 8.4(d). Comment [3] of Rule 8.4(d) explains further that "a lawyer who, in the course of representing a client, knowingly manifests, by words or conduct, bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation, or socio-economic status violates paragraph (d) when such actions are prejudicial to the administration of justice."

In Tennessee, attorneys who have been found in violation of Rule 8.4(d) have disobeyed judge's orders (*Bailey v. Board of Professional Responsibility*, 441 S.W.3d 223 (Tenn. 2014) (Attorney Bailey "disobey[ed] an instruction to avoid speaking")); (*In re Moncier*, 550 F.Supp. 2d 768 (E.D. Tenn. 2008) (Attorney Moncier violated rule 8.4 for disobeying the Judge's orders)), failed to file briefs in compliance with local rules (*Hancock v. Bd. Of Professional Responsibility*, 447 S.W.3d 844 (Tenn. 2014)), and/or failed to reply to court demands and deadlines (*Walwyn v. Board of Professional Responsibility*, 481 S.W.3d 151 (Tenn. 2015)). The Tennessee Board of Professional Responsibility has also found that pejorative statements may violate Rule 8.4(d). In *Board of Professional Responsibility v. Parrish*, 556 S.W.3d 153 (Tenn. 2019), the Board found that Attorney Larry Parrish had violated Rule 3.5(e), 8.2(a)(1), 8.4(d), and 8.4(a) for accusing Judge Farmer of acting as though he had accepted a bribe, and for accusing the judge of being an "adversary of [his client], willing to abuse the power of his judicial office." Additionally, the Tennessee Supreme Court determined that these comments were not protected under the First Amendment. Citing precedent in *Board of Professional Responsibility v. Slavin*, 145 S.W.3d 538 (Tenn. 2004), the court held that Parrish's statements were not protected speech by virtue of being made during motions and pleadings and being filed in court. Statements made "in the context of judicial proceedings" are "not without limits." *Slavin*, at 549.

DA Northcott's statements and actions show that he is cognizant of his personal bias against LGB people, and that he allows this bias to prejudice to the administration of justice. With regards to domestic violence incidents occurring between married same-sex couples, DA Northcott articulated knowledge of the rule of law-- that married same-sex couples are entitled to the same rights and protections as different-

sex couples. He demonstrated this awareness by stating that “the social engineers on the Supreme Court decided that we now have homosexual marriage.”

Although DA Northcott is aware of the law, his ideology ultimately guides his charging decisions. DA Northcott stated that he “disagree[s]” with the Supreme Court and claimed that “there’s no marriage to protect” when domestic violence incidents occur between married same-sex couples. Contrary to the Tennessee Rules of Professional Conduct Preamble, which states that “a lawyer should demonstrate respect for the legal system,” DA Northcott admonishes and dismisses the Supreme Court’s ruling in *Obergefell v. Hodges*, 135 S.Ct. 2584 (2015) and supplants his interpretation of marriage into domestic violence laws. Additionally, the Tennessee domestic violence statute is expansive in its definition of what types of relationships would qualify an assault as “domestic abuse” far beyond people who are married at the time of the abuse. *See*, Tennessee Code, § 39-13-111. Based on DA Northcott’s explanation of his reasoning for his biased application of this statute between same-sex and different-sex married couples, it is likely that he is also inappropriately applying the statute to other people that are protected under this statute. DA Northcott’s deliberate selection of lesser charges for domestic assault crimes involving LGB people directly obstructs the fair administration of justice. In doing so, he violates his professional responsibilities to bring charges with equal force of the law.

Furthermore, DA Northcott’s statements are not protected under the First Amendment of the U.S. Constitution. DA Northcott’s comments made during the Presentation describes discriminatory conduct in violation of the Tennessee Rules of Professional Conduct. He cannot escape responsibility for that unprofessional conduct by defending it in a speech. In any event, his comments themselves are lawfully subject to sanctions from the Board of Professional Responsibility. *See Slavin*, 145 S.W.3d 538, 550 (Tenn. 2004) (holding that “an attorney’s speech may be sanctioned if it is highly likely to obstruct or prejudice the administration of justice”). The Tennessee Supreme Court has acknowledged that while “legitimate criticism of judicial officers is tolerable, ‘an attorney must follow the Rules of Professional Conduct when doing so.’” *Slavin* at 549, citing *Shortes v. Hill*, 860 So.2d 1, 3 (Fla. Dist. Ct. App. 2003). DA Northcott’s comments were issued in his official capacity, and directly referenced how he miscarries his prosecutorial duties. *See Exhibit 2*. As such, his statements and conduct must adhere to the Rules of Professional Conduct (“RPC”). Indeed, the Tennessee Rules of Professional Conduct state that a lawyer is obligated to “conform to the requirements of the law, both in professional service to clients and in the lawyer’s business and personal affairs.” *See* Tenn. Sup. Ct. R. 8, RPC Preamble: A Lawyer’s Responsibilities [6].

B. DA Northcott’s Comments are in Violation of Rule 3.8 Comment [1] – Failure to Adhere to Special Prosecutorial Duties

The District Attorney and their office must be unbiased in carrying out their responsibilities. Rule 3.8 enumerates the “special responsibilities of a prosecutor,” and differentiates between the duties expected of other lawyers and prosecutors. Comment [1] of Rule 3.8 specifically states that prosecutors have an obligation to “seek justice rather than merely advocate for the state’s victory at any given cost.” *See State v. Superior Oil, Inc.*, 875 S.W.2d 658, 661 (Tenn. 1994). Comment [1] further states that charging decisions should be “based upon the evidence, without discrimination or bias for or against any groups or individuals,” and that “a knowing disregard of obligations or a systematic abuse of prosecutorial discretion could constitute a violation of RPC 8.4.” Additionally, Standard 3-1.6(a) of the American Bar Association’s (“ABA”) Criminal Justice Standards for Prosecution Function states that sexual orientation, amongst other identities, should not be improperly considered when exercising prosecutorial discretion, nor should prosecutors manifest bias or prejudice by words or conduct. The ABA

states that prosecutors should “strive to eliminate implicit biases, and act to mitigate any improper bias or prejudice,” and proactively deter against improper biases.²

The Tennessee Supreme Court in *State v. Culbreath* stated that the prosecutor’s “unique office” is “expected to be impartial in the sense that they must seek the truth,” and that they are to be “impartial in the sense that charging decisions should be based upon the evidence, without discrimination or bias for or against groups or individuals.” *State v. Culbreath*, 30 S.W.3d 309, 313-14 (Tenn. 2000). These expectations that prosecutorial decisions are being carried out “responsibly” are what engender public confidence in the integrity of government and the criminal justice system. *Id* at 316. Tennessee courts have articulated that fairness, impartiality, and justice serve as the “outer limit[s],” or a check, on whether the discretion of the prosecutor has been abused. *State v. Superior Oil*, 875 S.W.2d 658, 660 (Tenn. 1994) citing *Dearborne v. State*, 575 S.W.2d 259, 262 (Tenn. 1978), quoting *Pace v. State*, 566 S.W.2d 861, 866 (Tenn. 1978).

This fundamental expectation that prosecutors charge crimes fairly can be dated back to 1816, when the court in *Foute v. State* described the role of the district attorney as a “safeguard of the one and the advocate of the other; he ought not to suffer the innocent to be oppressed or vexatiously harassed... he is to judge of circumstances, and, according to their true complexion.” *Foute v. State*, 4 Tenn. (3 Hayw.) 98, 99 (1816).

DA Northcott’s statements and actions indicate that he is unable to uphold the special duties of a prosecutor and is therefore in violation of Rule 3.8. When evaluating charges to bring, DA Northcott disregards evidence when it implicates the rights of LGB people. In doing so, he knowingly disregards his professional obligations and subjects LGB people to differential treatment. In the domestic violence context, DA Northcott stated that he would not consider evidence of a marriage between same-sex couples when determining the charge. He similarly would disregard LGB people’s marriage rights by not bringing criminal charges against a clerk who denied a marriage license to a same-sex couple. In both examples, charging decisions are not based on the facts and evidence of a case, nor does DA Northcott “judge circumstances... according to their true complexion.” *Foute*, 4 Tenn. (3Hayw.) 98, 99 (1816). Rather, DA Northcott ignores facts and rejects individualized case-by-case determinations for a class of people and substitutes his personal beliefs and ideology, which then serves as the determining factor in his charging decision. This sort of decision making demonstrates an overt disregard for the fundamental rights of LGB people and a systematic abuse of his role as a prosecutor and is the very definition of bias against a protected class. For LGB people in Coffee County, DA Northcott decidedly asserts that he will not be their advocate in the justice system, based on his personal beliefs.

Additionally, DA Northcott’s choice to associate himself in his professional capacity with the Chafer Theological Seminary (“CTS”) gives the appearance of partiality against certain groups, which may damage the public’s confidence in the integrity of his office. In their Statement of Faith on Anthropology, CTS refers to “lesbianism” and “homosexuality” as “evidence of man’s depraved condition.”³ The Seminary considers LGB people, along with “maliciousness, murder, deceit, gossip, [and] violence,” as part of “mankind’s sinfulness.” While speaking at the conference, DA Northcott was introduced to the audience with his official title and was identified as the Coffee County DA in the event brochure. See Exhibit 2. Additionally, the keynote speaker at the 2018 Chafer Theological Conference

² Tennessee courts have used ABA guidelines as “guideposts” for appropriate attorney sanctions. See *Maddux v. Board of Professional Responsibility of Supreme Court*, 409 S.W.3d 613, 624 (2013).

³ <https://www.chafer.edu/anthropology>

was Shahram Hadian, a former Muslim who founded an anti-Muslim and anti-LGBT organization.⁴ Hadian's speeches and organization have repeatedly been the subject of Hatewatch, an investigative reporting column by The Southern Poverty Law Center that monitors radical hate groups.⁵ DA Northcott's association with both Hadian and CTS calls into question his ability to distinguish his personal beliefs from his professional obligations, and whether he can fairly administer justice on behalf of LGBTQ people he represents and serves.

C. Negative Implications of DA Northcott's Biased Assertions and Actions on the Safety and Security of Coffee County Residents

The Board must consider the potential harm to the administration justice in Coffee County for lesbian, gay, and bisexual people and the potential chilling effect on all domestic violence reports due to lack of faith in DA Northcott to perform his duties in an unbiased manner. People in a same-sex relationship who experience domestic violence must have access to a criminal legal system that is fair and unbiased. Studies show that LGBT people experience rates of domestic violence similar to and greater than rates amongst heterosexual people.⁶ When someone does report domestic violence, Lambda Legal's *Protected & Served?* national community survey found a pattern of inadequate responses from police officers when LGBT respondents reported they were victims of physical assault or domestic violence.⁷

DA Northcott's comments could deter reporting crimes and impose a substantial obstacle to accessing the court. In Tennessee, this is of grave concern. The Tennessee Bureau of Investigations reported that in 2018, 1,424 instances of domestic violence occurred in same-sex relationships.⁸ By basing charging decisions on his own conceptions of relationships instead of the established rule of law, he is subjecting LGB people to unfair treatment under the law. Further, DA Northcott's characterization of a person in a same sex marriage as "the sinner, the immoral guy" further indicates to the LGBT community that they may experience differential treatment when reporting other crimes committed against them, including, but not limited to, hate crimes, discrimination claims, and other violent acts.

Furthermore, DA Northcott's professed bias against the LGBT community may specifically chill reporting on hate crimes. Over the last few years, there have been reports of assaults on gay men⁹, threats

⁴ 2018 Chafer Theological Seminary Bible Conference Overview, <https://www.deanbibleministries.org/conferences-menuitem/messages/series/2018-chafer-theological-seminary-bible-conference> (The overview, and other published materials, conflates the Islamic faith with terrorism); Hadian's organization: <https://www.tilproject.com/index.cfm>

⁵ Bill Morlin, *Shahram Hadian: An ex-Muslim Preaching an Anti-Muslim Message*, The Southern Poverty Law Center (March 7, 2017), <https://www.splcenter.org/hatewatch/2017/03/07/shahram-hadian-ex-muslim-preaching-anti-muslim-message>

⁶ See Guadalupe-Diaz, *An Exploration of the Difference in Help-Seeking of LGBTQ Victims of Violence by Race, Economic Class and Gender* (2013) 9 *Gay & Lesbian Issues and Psychology Rev.* 15; Brown & Herman, *Intimate Partner Violence and Sexual Abuse Among LGBT People: A Review of Existing Research* (November 2015) The Williams Institute, <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Intimate-Partner-Violence-and-Sexual-Abuse-among-LGBT-People.pdf> (as of June 5, 2018).

⁷ Lambda Legal, *Protected and Served? Survey of LGBT/HIV Contact with Police, Courts, Prisons, and Security* (2014).

⁸ Tennessee Bureau of Investigation, (June 28, 2019), https://www.tn.gov/content/dam/tn/tbi/documents/tibrs/2018%20Domestic%20Violence_Final.pdf

⁹ Mariah Timms, *Man charged with hate crime in Murfreesboro after alleged anti-gay assault*, Daily News Journal (July 11, 2018), <https://www.dnj.com/story/news/2018/07/11/hate-crime-murfreesboro-anti-gay-beating/775772002/>

of violence against gay bars¹⁰, assaults on Pride March attendees by white nationalists¹¹, and the murder of a Black transgender woman.¹² According to the 2018 Tennessee Hate Crime Report authored by the Tennessee Bureau of Investigation, 21.9% of all hate crimes in 2018 were based on sexual bias, which includes bias motivated crimes against LGB and TGNC people.¹³ Additionally, Tennessee is home to approximately 130,000 LGBT adults according to a report from the Williams Institute, nearly 25% of whom are people of color.¹⁴

DA Northcott's public condemnation of the Muslim community¹⁵ bears particularly grave implications for members of both the LGBT and Muslim community. He has prolifically expressed bias against the Islamic faith, which may be compounded with his LGBT bias to significantly impact LGBT Muslims in Coffee County. LGBT Muslims cannot reasonably believe that DA Northcott will advocate for their rights when he has professed such animosity against their identities.

The discriminatory charging decisions DA Northcott makes add to existing legal barriers LGBT people face when interacting with the criminal justice system. The Williams Institute at the University of California, Los Angeles, School of Law reported that these barriers include legal terminology that excludes same-sex couples from domestic violence statutes, knowledge and recourse gaps for LGBT survivors of domestic violence, harmful consequences of being "outed" during the reporting process, and fear of homophobia and/or transphobia from service providers.¹⁶ Importantly, the Williams Institute also reported that many in the LGBT community have low levels of confidence in law enforcement and in courts. DA Northcott's comments exacerbate these hurdles by clarifying exactly how an individual's LGBT identity will impact how he assesses crimes committed against them, and how this knowledge will substantially impact their ability to achieve protection from the state. Given his statements, LGBT people have no guarantee that their claims will be handled with the same level of diligence and care as other people in Coffee County, as the law demands.

V. Conclusion

DA Northcott's assertions that domestic violence between same-sex couples would not rise to domestic assault sends a clear message to LGBT victims: crimes against them do not rise to the same level of egregiousness as crimes committed against heterosexual people, and that justice will be pursued to a lesser degree. Indeed, by saying that he does not and will not provide them with the protections

¹⁰ Curtis M. Wong, *Nashville Gay Bars Say They've Been Targeted with Pro-Trump, Threatening Mail*, Huffington Post, (Oct. 23, 2018), https://www.huffpost.com/entry/nashville-gay-bars-lgbt-hate-mail_n_5bcf0e35e4b055bc9484b613

¹¹ Rebecca Wright, *Knox Pridefest ends with assault charge*, Knox News (June 23, 2018) <https://www.knoxnews.com/story/news/2018/06/23/knox-pridefest-protest-tennessee-gay-lesbian-lgbt-white-nationalist/726192002/>

¹² Trudy Ring, *Transgender in the South: New Study Shines Light on Oppression*, Advocate (May 14, 2019) https://tdor.translivesmatter.info/reports/2019/03/25/jazzaline-ware_memphis-tennessee-usa_c300eb1e

¹³ Tennessee Bureau of Investigation, *Tennessee Hate Crime 2018*, (June 2019) https://www.tn.gov/content/dam/tn/tbi/documents/tibrs/2018%20Hate%20Crime_Final.pdf

¹⁴ *LGBT People in Tennessee Factsheet*, The Williams Institute, <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Tennessee-fact-sheet.pdf>, (last viewed August 23, 2019).

¹⁵ Casey Watts, *CAIR Files Formal Complaint against DA Craig Northcott*, The Manchester Times (May 29, 2019), https://www.manchestertimes.com/news/local/cair-files-formal-complaint-against-da-craig-northcott/article_e9951616-8237-11e9-9135-bf9cb81c7ff5.html; We note also our awareness of a professional misconduct complaint that has previously been filed by over 300 attorneys in Tennessee with the Board of Professional Responsibility related to the actions of DA Northcott contained within this complaint.

¹⁶ See Brown & Herman, *supra*, at 16-18

available to them under law, he promises as much. Ultimately, DA Northcott makes clear than he will not endeavor to achieve justice and redress equally for all citizens of Coffee County.

DA Northcott's statements demonstrate a clear bias and prejudice against LGB people that is prejudicial to the administration of justice. He manifests this animosity with clarity and after careful deliberation. DA Northcott proudly professes that his religious ideology impedes his ability to prosecute fairly. Both the same-sex domestic violence and county clerk marriage application situations illustrate instances where the rule of law are being and would be thwarted by DA Northcott's biased perspective. His prosecutorial decisions on the basis of sexual orientation suggest that LGB complainants, and possibly defendants, would routinely experience miscarriages of justice. The summation of his statements send a clear message to the married same-sex couples, and by extension, the larger LGBT population in Coffee County, that crimes committed against them will be prosecuted differently than those against heterosexual people. DA Northcott's words and actions deter LGBT people from reporting crimes committed against them, as they know the state will not advocate for them to the fullest extent of the law.

Based on the aforementioned claims, it is clear that DA Northcott has violated Rule 8.4(d) and Rule 3.8 of the Tennessee Rule of Professional Responsibility. It is based on these violations that we ask the Tennessee Board of Professional Responsibility to exercise its authority to investigate DA Northcott and seek his disbarment or other appropriate disciplinary action.

Respectfully Submitted,

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Exhibit 1

Excerpt from District Attorney Craig Northcott’s Presentation “The Local Church’s Role in Government” at the 2018 Chafer Theological Seminary Bible Conference on March 13, 2018. Transcribed from InTheGripOfTheLamb, 08 – 2018 CTA – Craig Northcott – The Local Church’s Role in Government, YouTube (Mar. 13, 2018), https://www.youtube.com/watch?v=_DRZ14A_QYI&t=909s

Conference Attendee: Just perhaps, as a hypothetical, let’s say the federal government does something ridiculous like legalize gay marriage. And you’re a Christian county clerk working in a marriage license office and, this is all hypothetical, and you refuse to follow the federal law and the matter gets brought to the district attorney, whoever that might be. How as Christians would you deal—do you think we should deal with those situations?

Northcott: Well, let me start, I will have to disagree slightly, I guess it was at lunch, there was a comment made that 9 people in a black robe now rule us. That’s literally inaccurate. There are five people in black dresses rule us. It just takes five votes; it doesn’t take all nine. And when they legislated policy, and that’s what they did. If you ever read their opinion, they don’t base it on the constitution, they don’t base it upon law, they don’t base it on anything, they start in the very first paragraph saying “we think it’s a better policy for homosexual marriage to be legitimized, therefore we’re going to rule this way.” That’s what they say at the very beginning.

But here’s, I’ll answer your question in two ways: one specifically addressing the situation that you rose, and two, giving you an example of what I face. As to the clerk, it just boils down to: are you going to do what god says, or are you going to do what man says? And the clerk will probably lose their job, either immediately or through election if they take a stand on god’s truth. We’re not safe from the consequences of standing on the truth. And I think you just have to make a decision anytime you hold office that you’re going to stand on the truth and what consequences come come. And that would be my advice to the clerk, is don’t succumb.

As far as the DA prosecuting, that kinda leads me into my second part of the answer. DAs have what’s called prosecutorial discretion. You all need to know who your DA is. You all give us a lot of authority, whether you know it or not. You give us a lot of authority. We can choose to prosecute anything, or we can choose not to prosecute anything, up to and including, murder. It’s our choice, unfettered. So you better know who your DA is.

So, to deal with that, you elect a good Christian man as DA. And that will be, make sure they don’t get prosecuted criminally. That decision had a lot bigger ramifications than a lot of people know. It had ramifications on my professional life.

So Craig, you deal with crimes. How can homosexual marriage deal with criminal aspect? Y'all know what assault is? Guy gets drunk in a bar, punches someone in the nose, usually over a woman, that's an assault. There's a subcategory of assault called domestic assault. And it carries the same punishment in Tennessee, it's a misdemeanor, class A misdemeanor punishable by up to 11 months, 29 days in jail. But, a domestic assault carries more punishment. You forever lose the right to own a gun under federal and state law, you have restrictions on your movement that you wouldn't otherwise have under what we call simple assault, and there are other enhanced punishments. So, the social engineers on the Supreme Court decided that we now have homosexual marriage. I disagree with them.

What do I do with domestic assaults? One hand, I don't prosecute them because I don't recognize it as marriage, on the other hand, if I don't prosecute them, then the sinner, the immoral guy, gets less punishment. What do you do? Well the reason, where I came down in my evaluation, was the reason that there's enhanced punishment on domestic violence is to recognize and protect the sanctity of marriage. And I said, there's no marriage to protect. So I don't prosecute them as domestics. And that is one of many decisions like that that you face, that you just wouldn't see. And the point is you need someone, and I'm not holding myself up as the gold standard, I just, an example of my life, I certainly fail, but you need someone who will do an evaluation on those terms in making those decisions. If your specific situation came to me, I'd pat her on the back, give her hugs, I'd go at it, I wouldn't be prosecuting.