

Kim Davis gave me blisters

BY MARY JANE EPLING
THE DAILY INDEPENDENT

“Sorry, we’re short staffed,” will go down in history as the most-used phrase in the 2020s.

Here at TDI, we’re no different than any other industry these days — trudging along with a skeleton crew after corporate big wigs found out they could cut expenses by assigning multiple job roles to a single person.

There’s no time for huffing, either, especially at a “daily” newspaper where we continue to push out fresh coverage — even when we have to be at two places at once.

I think about how nice it would be to have just one more reporter at least once a week, especially on Thursdays when we have to figure out how to cover Boyd and Greenup court dockets at the same time.

But there’s never been a time I’ve prayed harder for an extra set of hands — and feet — than I did in September 2023.

Let’s rewind. Beginning on Sept. 11, the City of Ashland kicked off the annual Appalachian Regional Commission Conference, which brought representatives from 400 Appalachian counties to Winchester Avenue to chat all things economic development.

On the same day, two jury panels finally convened in the nearly decade long lawsuit against former Rowan County Clerk Kim Davis.

As excited as I get about litigation, especially regarding civil rights violations, it was a bit of a panic to strategize coverage for the multitude of ARC-sponsored events and nearly one week’s worth of court testimony.

Hailing from Morehead State’s class of 2019, I was on

campus during the fallout of Davis’s refusal to issue marriage license to same-sex couples following the landmark Supreme Court decision that legalized gay marriage.

The thought of not covering the trial wasn’t an option, even when the decision got tougher when I learned former Kentucky basketball coach John Calipari would make an appearance for a Q&A segment with Gov. Andy Beshear — coinciding with the trial.

I’m more stubborn than determined, but, by golly, if there’s a will there’s a way.

That morning I donned my courtroom professional attire and, stupidly, opted for a pair of new heels to appear a bit more put together for the hotshots now downtown.

Ashland’s federal courthouse is all of two blocks from the newsroom and traffic (pre-roundabouts) on Winchester made walking

the most feasible.

The plan: Walk to the courthouse to cover whatever testimony I could before I had to bail and walk over to the Calipari event at the Paramount Arts Center.

The plan: stupid.

The blisters had formed by the time I crossed Greenup Avenue and my stride looked like a newborn giraffe trying its best to keep up with the herd.

By 15th Street, I was barefoot and my desire to look put together in front of the governor and former head coach of my favorite college basketball team had gone out the window.

I later caught up with our photographer/reporter Matt Jones who I’m sure made some comment about needing a Tetanus shot after walking barefoot downtown.

At first I feared being judged by the politicians and representatives who may have

witnessed my lack of footwear and accompanying limp.

I pictured them corralled in front of a window at the Delta-Marriott, hee-hawing and pointing at the barefoot giraffe barreling down the ally.

Then I decided, hey, any representative of Appalachia that’s offended by somebody being barefoot ain’t got no business being a representative of Appalachia.

Long story short, I managed to turn out coverage for Cal’s Q&A and got Davis’s jury verdict.

Over a year later, those blisters have turned into nice purple-hued scars and I still think about how easy life would be if we just had one more reporter.

But rest assured, TDI readers, be it blood, sweat, tears or blisters, a paper will (most likely) print again tomorrow.

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Former clerk to pay damages

BY MARY JANE EPLING
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ASHLAND An eight-year-long court saga came to an end on Wednesday following a three-day civil trial in United States District Court between two same-sex couples and former Rowan County Clerk Kim Davis.

A panel of jurors determined Davis owed one couple \$100,000 in compensatory damages after she refused to issue marriage licenses following the Obergefell v. Hodges Supreme Court decision that recognized same-sex marriage as a fundamental right.

Plaintiffs David Ermold and David Moore initially filed their lawsuit against Davis soon after their attempts at receiving a marriage license were blocked by Davis on three separate occasions in 2015.

Davis previously instructed her office not to issue any marriage licenses at all, as she didn’t want to “discriminate” after it was determined there would be no religious exemptions or accommodations for a public official to deny same-sex marriage licenses.

The pair sought damages for mental anguish, emotional distress, humiliation and reputation damages stemming from Davis’ decision.

The couple and Davis were thrust into the national spotlight as protestors descended upon the small county’s clerk office.

Practically overnight, Davis became a religious symbol and Moore and Ermold icons for the LGBTQA+ movement, in a country torn between religious text and modern-day written law.

After the United States District Court for the Eastern District of Kentucky ruled Davis violated the plaintiff’s constitutional rights, the case was scheduled for a jury trial to determine damages. The trial started on Monday.

Ermold and Moore alleged they were treated like less than human beings by Davis and the mobs of protestors who took to her defense.

Testimony revealed Ermold and Moore received threats of violence, causing the couple to no longer feel comfortable in their own community.

While the landmark decision resulted in celebration for same-sex couples and allies across the nation, Ermold and Moore experienced the opposite because of Davis’ defiance.

Ermold previously voiced his hurt from the situation, saying instead of celebrating his now legally recognized marriage with his long-term partner, he faced discrimination.

“The one moment in my life that is supposed to be above all else, one of the greatest moments in my life,” Ermold is quoted as saying in early court documents.

Davis’ defense counsel argued the couples could have gone to any other county for a marriage license and only sought Davis for fame and opportunity.

Attorneys for the plaintiffs fired back, saying their clients never received a dime for any media interview, never received monetary donations for legal fees and didn’t write a book.

According to research conducted by *The Daily Independent* after the trial, it was actually Davis who released a book, “Under God’s Authority” in February 2018, and according to previous news outlets, the National Organization of Marriage moved to raise \$100,000 for Davis the same year.

Davis’ attorneys also argued the couple(s) should have taken note of Davis’ initial refusal and stopped showing up to the clerks office, as they were then inflicting the turmoil on themselves.

Michael J. Gartland, of DelCotto Law Group, gave a moving closing statement to jurors on behalf of Ermold and Moore on Wednesday.

During closing, Gartland rephrased the defense’s position: “They say a violation of a constitutional right is fine,” adding founding fathers of the country would “roll over in their graves.”

After about two hours of deliberation, the jury in Ermold and Moore’s case returned the verdict in favor of the plaintiffs — awarding \$100,000 and legal fees.

Moore held Ermold closely after the verdict was read and Ermold was visibly overtaken by emotion.

“They listened,” was overheard as Ermold heaved.

Horatio G. Mihet, Davis’ attorney, informed U.S. District Judge David Bunning the defense intend to file an appeal, to which Bunning responded, “I knew you would.”

Following the verdict, Gartland and co-counsel Joseph D. Buckles described battling the case through four appeals throughout the past eight years, saying the journey was a lengthy one but never a lost cause.

Gartland held an “obligation to protect the 14th Amendment,” which, in this case, requires all states to recognize same-sex marriages.

Ermold’s only comment for the press was appreciation for Gartland and

Buckles, describing them as, “the best and most dedicated.”

Moore and Ermold’s case was presented separately, but simultaneously, as a second same-sex couple, Will Smith and James Yates, who were refused a marriage license by Davis six times following the Supreme Court’s decision.

Their portion of witness testimony, before a different set of jurors, included statements from Yates’s sister describing the couple’s mental struggles after the ordeal.

“It was hard for them to be a part of a community they chose to build their life in,” she said, adding the couple were threatened and called slurs during protests outside the clerk’s office.

Mihet argued Davis couldn’t be held responsible for others’ statements.

Yates and Smith’s attorney, Rene B. Heinrich, said during closing statements, while she didn’t think Davis was a bad person, she allowed the damage to exacerbate when she continued to defy federal court orders, continued to deny licenses and failed to control the protestors’ “circus” outside her office.

Davis testified she didn’t interfere with the protestors as she didn’t want to violate their First Amendment right to do so. Plaintiff’s counsel later called this “hypocritical.”

“Even to this day she doesn’t want to make it right,” Heinrich said. “She enjoyed the limelight,” adding, “... pride can also be a sin.”

Mihet’s closing, however, provided sympathy for Davis, saying both sets of plaintiffs wanted “hundreds of thousands” from a “retired grandmother.”

Referring to the earlier arguments about the alleged hostility of the protests, Mihet said the plaintiffs were well aware of the “circus,” he believed they themselves caused by sharing videos online of Davis’ refusal.

“(They) just want to punish Mrs. Davis,” Mihet said. “Mrs. Davis has already been punished enough.”

The second set of jurors returned a \$0 award for Yates and Smith after deliberation.

While Davis didn’t make comments following the verdicts, Mihet did, telling media members it was a “mixed day” for Davis, adding they were thankful for the vindication in the Yates and Smith case, but planned to fight the verdict in Ermold and Moore’s.

“We will continue to work until (Davis) is fully vindicated,” Mihet said.

Bunning said Davis’ defense will have to file documentation pertaining to an appeal within 10 days.

Coach Cal, Rocky Adkins highlight plenary

BY MARY JANE EPLING
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ASHLAND U.S. Representative Hal Rogers summed up Kentucky into four categories — other than Kentucky basketball — on Monday afternoon: the Bible, bourbon, tobacco and betting on horse races. The 22-time elected representative made the remark to allude to the appearance of Kentucky Men’s Basketball Coach John Calipari.

A crowd gathered into the historic Paramount Arts Center for the plenary session for the Appalachian Regional Commission Conference, which kicked off a two-day affair focusing on the economic development and revitalization of 400-plus counties throughout the Appalachian Mountains.

Despite representatives and attendees hailing from a path stretching from New York to Mississippi, few speakers in attendance drew an applause comparable to that of Calipari.

Following motivational speeches from multiple agencies and politicians, Gov. Andy Beshear hosted a Q&A segment with Calipari, covering heartfelt stories about big losses, big wins, the importance of getting back up and giving back where you can.

The son of a steelworker and the descendant of West Virginia coal miners, the Pennsylvania native put the roundball and clipboard aside to break down his humble upbringing and the resilience he inherited from the region.

While Calipari is known around these parts for wrangling a national championship in 2012, six SEC Tournament titles and is second only to Adolph Rupp in overall wins, the Hall of Famer didn’t start at the top.

In childhood, Calipari said he grew up in a “Friday to Friday” family, living paycheck to paycheck.

“We thought it was normal. We all were the same. But you had to work and you had to do it together,” Calipari said. “Yeah, there were times you needed a hand up, but you were never asking for a handout.”

Calipari said he relayed that mentality into his own children. “You earn. You work. There’s nothing that’s given to you in this world,” Calipari said — an embodiment of the Appalachian spirit.

Early in his career Calipari said he faced trials including the loss of his job after going 3-17 as head coach of the New Jersey Nets in 1998-99.

But Calipari kept his head down and continued the grind, ultimately leading him to an overall successful go as head coach at the University of Memphis and later a multi-million dollar contract at UK in 2009.

According to Calipari, another

attribute of the Appalachian culture is giving back and lending a helping hand to those in need.

As coaching eventually brought about a successful career, Beshear asked Calipari about his charity work as coach.

From far outreach, with earthquake relief in Haiti, fundraising for Hurricane Harvey, super-storm Sandy, to local relief for tornado victims in western Kentucky to the devastating flooding in eastern Kentucky —

Calipari’s response was simple:

“If you’re the basketball coach at Kentucky and all you do is watch tape ... you cheat the position. It’s a position that moves people to good if you choose to do that.”

Calipari has hopes that the millions of dollars he and his prior teams have raised will motivate other organizations to do the same.

With a jam-packed roster of successful NBA stars throughout his career at UK, Calipari said he did more than coach ball; he aimed to instill

a sense of community, circling back to the purpose of ARC’s mission.

Prior to Calipari’s segment, Senior Adviser Rocky Adkins, a former point guard and Hall of Famer himself, became tearful as he retold his love of the Appalachian foothills.

“I am a proud person from Appalachia. I believe in our people from the top of my head to the bottom of my feet,” Adkins said with emotion.

Adkins said Appalachian people created the Industrial Revolution, the strongest middle class and carried the country through two world wars.

“We are hard-working people. We are resilient people,” Adkins said. “I’m not only from eastern Kentucky and Appalachia, I live in it still to this day and I’m proud of it.”

Through the downturn of the railroad, coal and steel industries, Adkins said it was time locals who have suffered for generations got a glimmer of hope.

“For a region that helped build America, it’s America’s time to help us rebuild Appalachia and rebuild eastern Kentucky,” Adkins added.

ARC co-chair Gayle Manchin and Rogers also gave speeches that outlined the Appalachian pride and hope.

Manchin said the ARC’s theme this year — Resilience, Strength and Transformation — summarized the message, saying we may be down, but we’d never be out.

“This is a place worth fighting for,” Manchin said.

Rogers said a vision without funding is simply a “hallucination,” and with the help of the commission, its partnerships and federal support, “We are transforming central Appalachia.”



MATT JONES |

THE DAILY INDEPENDENT
John Calipari talks during the Appalachian Regional Commission 2023's conference "Appalachia Rises" at the Paramount Art's Center in Ashland on Monday.