



NEW YORK STATE SENATOR

Ruben Diaz

## The New Zeal

RUBEN DIAZ July 18, 2011

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For Immediate Release

New York State Senator Reverend Ruben Diaz (D-Bronx) released the following statement in response to the Alliance Defense Fund Memo for New York Municipal Clerks who are responsible for issuing marriage licenses. Their Memo addresses the right of clerks and other employees to request an accommodation for their sincerely held religious beliefs concerning the issuance of marriage licenses to same sex couples:

"I applaud the Alliance Defense Fund's effort to step forward and provide a legal resource for municipal clerks and other employees in New York who may face a dilemma when Governor Cuomo's Same-Sex Marriage Bill goes into effect on July 24th. No one should have to resign from his or her job if issuing marriage licenses to gay couples violates his or her conscience.

Although none of the amendments or exemptions to New York's Same-Sex Marriage bill include individual conscience protections, New York Human Rights Laws do protect employees for their sincerely held religious beliefs.

It is inexcusable that Nassau County District Attorney Kathleen Rice has publicly threatened employees by stating "the law affords no discretion to public officials charged with granting marriage licenses. Therefore, any such refusal may be subject to criminal prosecution."

Her press statement stated: "The religious exemptions in the Marriage Equality Act are inapplicable to town and city clerks serving in their license-granting roles, and a public official's intentional refusal to issue marriage licenses to qualified same-sex couples may constitute Official Misconduct, a Class A misdemeanor defined in section 195.00 of the New York State Penal Law."

Since when do district attorneys decide to pick and choose which "official misconduct" should be prosecuted as a criminal offense?

New York State can't even sustain a conviction against former Republican Senator Joseph Bruno for official misconduct when he was charged with taking huge financial favors to shape legislation and other matters for friends! How can district attorneys be allowed to selectively criminally prosecute middle level clerks and staffers for adhering to their core religious principles?

Does anyone actually believe that a clerk's failure to assist in gay marriage should be raised to the level of criminal activity?

If it does, then this new zeal in prosecuting official misconduct by government officials who fail to totally fulfill their governmental duties should amount to an open season for all five New York City District Attorneys to start prosecuting across the board any number of government officials employed under the tenure of Mayor Michael Bloomberg.

They could start prosecuting Mayor Bloomberg's officials for denial of basic housing, denial of rudimentary education for elementary school, middle school and high school children (which is mandated by the State Constitution), denial of services to our elderly, etc, etc.

And if the district attorneys are going to investigate the criminal intent of these malfeasants, they can point to either prejudice or laziness or ignorance or "benign" neglect. (As far as I know, none of these motives qualify for protection under New York's Human Rights Laws.)

Let's keep our eyes open and see just how this new zeal for justice will be applied. It will either be done equally — or selectively to enforce social engineering."