

Commonwealth of Kentucky
Office of the Attorney General

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July 5, 2023

Via email

Craig Greenberg
Mayor, Louisville/Jefferson County Metro Government
c/o Casey L. Hinkle, Litigation Counsel
chinkle@kaplanjohnsonlaw.com

Re: *Chelsey Nelson Photography, LLC, et al. v. Louisville-Jefferson County, et al.*

Mayor Greenberg,

As we Americans celebrate our Independence Day this week, I write to inform you of the recent vindication of one of our most treasured rights, provided by our Creator and secured by the unyielding resolve of our Founding Fathers when they pledged their lives, their fortunes, and their sacred honor—the right to freely speak one’s conscience and to refrain from expressing beliefs at war with it.

On Friday, June 30, 2023, the United States Supreme Court upheld every American’s basic First Amendment right to be free from compelled speech. In *303 Creative LLC v. Elenis*, the Court found in favor of a designer of wedding websites who feared administrative action would be taken against her under the state of Colorado’s anti-discrimination law if she refused to create a custom wedding website for a same-sex couple’s wedding. Writing for the majority, Justice Gorsuch succinctly stated, “All manner of speech—from ‘pictures, films, paintings, drawings, and engravings,’ to ‘oral utterance and the printed word’—qualify for the First Amendment’s protections.” *Id.* at Slip Op. at 10 (emphasis added). Notwithstanding the good intentions underlying anti-discrimination and public accommodation laws, such as those in Colorado and in Louisville, they “can sweep too broadly when deployed to compel speech.” *Id.* at Slip Op. 14. Thus, the Supreme Court asked, “Can a State force someone who provides her own expressive services to abandon her conscience and speak its preferred message instead?” *Id.* at Slip Op. 19. The Court held the unambiguous answer is, “No.” *See id.* at Slip Op. 26.

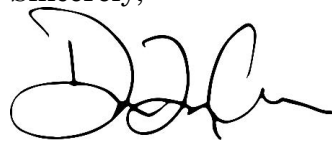
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Judge Benjamin Beaton foreshadowed the Supreme Court's vindication of First Amendment principles in *Chelsey Nelson Photography LLC, et al v. Louisville/Jefferson County Metro Government, et al*, Case No. 3:19-cv-851 (W.D. Ky. Aug 30, 2022), in which he opined that Mrs. Nelson's similar fear of government compelled speech violated her First Amendment right to express her conscience. Specifically, Mrs. Nelson expresses her beliefs through wedding photography, but she fears Metro Louisville's Fairness Ordinance will be used against her to compel her to photograph events that violate her fundamental understanding of the nature of marriage. In a well-reasoned and prescient decision, Judge Beaton ruled in favor of Mrs. Nelson and permanently enjoined Metro Louisville from enforcing its ordinance against her. Ignoring Judge Beaton's compelling reasoning, your predecessor appealed that decision to the Court of Appeals for the Sixth Circuit.

At the time of this letter, oral argument in the matter is scheduled for July 28, 2023. In light of the Supreme Court's recent ruling, that oral argument appears to be an exercise in futility, one that will likely add to the expense already imposed on the taxpayers of Louisville and Jefferson County

As our Commonwealth's chief law officer, I call on you to change course and to uphold a bedrock of our democracy—the right of every American, every Kentuckian, and every Louisvillian to speak according to his or her conscience. Moreover, I urge you to stop wasting the hard-earned tax dollars of those same citizens in a quixotic campaign at the Sixth Circuit that has been rendered a nullity. It is within your authority, as the Mayor of Louisville, to abandon Metro Louisville's pending appeal in *Chelsey Nelson Photography LLC, et al v. Louisville-Jefferson Co., KY, et al.*, Case No. 22-5912 (6th Cir). The Supreme Court has spoken. Chelsey Nelson has the right to her conscience and cannot be compelled to speak against it. In the spirit of freedom to which our Founding Fathers pledged their sacred honor, this is the only right and reasonable thing to do.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Cameron', written in a cursive style.

DANIEL CAMERON
Attorney General of Kentucky

Enclosure