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EDITOR: Sheila Elwin
religiousliberty@southernunion.com

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The university defendants... “are either plainly incompetent or they knowingly violated the Constitution.”



Three Cases Challenge, Affirm Religious Liberty in Higher Education

University of Iowa Held Accountable for Targeting Religious Groups

University of Iowa officials can be held personally responsible for having kicked a student club off campus because of its faith, according to a Federal appeals court. UI received a student complaint about Business Leaders in Christ (BLinC) because they require their student leaders to affirm Christianity. Originally, UI had recognized BLinC students as some of their best on campus, and welcomed their leadership criteria. However, after the complaint, the university made the club leave campus.

The university claimed BLinC was in violation of their nondiscrimination policy, even though they allowed other faith-based and non-religious groups to have criteria for student leaders. When a federal judge warned them about their double standard, they quickly kicked out other Christian, Sikh, and Muslim student

groups who used faith as a leadership criteria. However, they did not touch fraternities, sororities, political groups, and other ideological clubs which discriminate according to sex, race, or other traits protected by the nondiscrimination policy.

In March 2021 the U.S. Court of Appeals for the Eighth Circuit recognized the university's policy as discrimination violating the First Amendment. Not only that, but they added that officials at University of Iowa can be held personally responsible for unconstitutional conduct because they knew what they were doing. The presiding judge noted, "The individual defendants may pick their poison: they are either plainly incompetent or they knowingly violated the Constitution."

The University of Iowa has allowed Business Leaders in Christ to return to campus.

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Religious Liberty in Education...

Cont. from cover

Supreme Court Sides With Students in Speech Zone Case

The Supreme Court ruled 8 to 1 in favor of two former students of Georgia Gwinnett College in *Uzuegbunam v. Preczewski*. The students had sued GGC, a public institution, about restrictive campus speech policies.

Student Chike Uzuegbunam was stopped by campus police twice for sharing his religious views and handing out literature on campus. He was told he could only do this in two designated "free speech expression areas," and it would require a permit. When he complied, students complained and he was again stopped because he couldn't use the zone for anything that "disturbs the peace and/or comfort of person(s)." He was joined in the suit by student Joseph Bradford. Bradford had decided not to speak on campus because of what happened to Uzuegbunam.

The ruling was not guaranteed, because the students have already graduated or moved on, and the college had dropped its defense and changed the restrictive policies. Still, the court decided the students' claims were valid for nominal/symbolic damages. The American Civil Liberties Union, other free speech groups, and several religious liberty organizations had filed supporting briefs.

"The Supreme Court got

it right," said Darpana Sheth, vice president of litigation for FIRE, a group that opposes restrictive speech policies on campuses, continuing, "Today's ruling protects students' ability to vindicate their priceless First Amendment rights and hold public university officials accountable."

Lawsuit Challenges Religious Schools on LGBTQ, La Sierra University Named

More than 30 students and former students from religiously-affiliated universities and colleges have joined a lawsuit which challenges religious schools and their right to federal funds if those schools discriminate against LGBTQ rights. Among the 25 schools named is La Sierra University, a Seventh-day Adventist university in Riverside, Calif.

The suit has been brought against the U.S. Department of Education because of the religious exemptions they offer, which the suit claims violate the Constitution. It states, "The department must enforce the protections of Title IX at all taxpayer-funded educational institutions, including at those institutions that discriminate and cause harm on the basis of sincerely held religious beliefs."

The timing of the filing coincides with the Equality Act currently being considered, which would add sexual orientation and gender identity to areas already protected by federal laws.

"...if the Equality Act [is] successful, faith-based schools may not be protected to operate according to their religion..."

Participants in the new suit fear the Equality Act could be amended to remove or soften the regulations on education. On the other hand, some faith-based school leaders have said they fear the Equality Act would fuel discrimination against people of faith who oppose same-sex marriages for religious reasons.

Ultimately, if the Equality Act and the new suit are successful, faith-based schools may not be protected to operate according to their religion, even if they give up all federal funding.

- *An Amish couple and members of the Old Order Amish religion have filed suit against the Adams County Regional Sewer District in Indiana over an outhouse. The sewer district is requiring all residents to connect to the municipal system. The suit says, "Defendants seek to force the Plaintiffs to violate their deeply, long held religious beliefs against use of electricity and connecting to the outside world by requiring Plaintiffs to connect to a municipal sewer system," violating their religious freedom.*

- *The Supreme Court issued orders in February that overrule California's ban on inside religious services. Retail was allowed to operate at 25%, 50%, and greater capacity, and the discrepancy was noted. Limited attendance and bans on singing or chanting will still be allowed.*

- **NEWS OF THE WORLD:** *A Malaysian court has ruled that non-Muslims may use the word "Allah" to refer to God, deeming a 35-year ban unconstitutional. Christian leaders there said the ban was unreasonable because Christians who speak the Malay language have long used Allah in their Bibles, prayers, and songs.*

Equality Act Protects LGBTQ Rights, Threatens Religious Exemptions

The Equality Act, which would amend the Civil Rights Act to ban discrimination based on sexual orientation and gender identity, has passed the U.S. House and is headed to the Senate Judiciary Committee. It would affect employment, education, housing, and public accommodations, but it would also override the Religious Freedom Restoration Act (RFRA).

RFRA prohibits the federal government from "substantially burdening" individuals' exercise of religion unless it is for a "compelling government interest." RFRA passed with noteworthy bipartisan support in 1993, but in recent years LGBTQ and civil liberties advocates say it has been used to allow discrimination by social conservatives.

The Mormons, Seventh-day Adventists, and the Council of Christian Col-

leges and Universities are among those who have supported some expanded LGBTQ protections. However, Fairness for All is the preferred measure by some Christian entities, including the Adventist Church. The North American Division (NAD) and General Conference have partnered together to represent the Seventh-day Adventist Church in a diverse coalition of faith and advocacy partners who support the Fairness for All Act's balanced approach to addressing LGBTQ discrimination while maintaining the historically protected and cherished place held by religion in society, according to Melissa Reid of North American Division Public Affairs and Religious Liberty Department.

Fairness for All substantially broadens LGBTQ protections in public life, but allows significant excep-

tions for faith-based institutions. One example is that religious schools being able to keep their code-of-conduct policies for students and staff, including specifications for hiring and firing. Also, houses of worship that segregate by gender — like orthodox synagogues and mosques — wouldn't lose federal security grants they use to protect themselves from attacks.

If the Equality Act passes, conservative religious organizations will likely spend years and countless dollars on court battles to fight for things they have been allowed previously. (See more information in the La Sierra segment of the cover story.) Dan Balserak is the director of religious liberty at the U.S. Conference of Catholic Bishops. He believes the Equality Act would change the legal nature of religious spaces: "The Equality Act

takes these spaces that have traditionally been regarded as privately operated enterprises and brings them in reach of this statute that was intended to combat race discrimination," he said in an interview with the Washington Post. "I think this moment presents a real challenge for Catholic groups. We need to walk that walk, to continue to serve everyone," Balserak continued. "I don't think the concern is losing massive amounts of money. It's being punished for the beliefs we hold."

Native Americans...

Cont. from page 4

rededication of the area for our ancestors, and the promise that we can continue to worship as our tribes have done for centuries," said Carol Logan, a member of the Confederated Tribes of Grande Ronde and plaintiff in *Slockish*.

"This kind of abuse would never be tolerated for other faith groups, and it is long past time for the legal system to end it," notes Luke Goodrich, vice president of the Becket Fund for Religious Liberty, a religious liberty association and "powerhouse law firm," as tagged by the Associated Press. Plaintiffs in both cases are represented by Becket, city, and other private attorneys.

Alabama Working Towards Pandemic-related Changes

The Alabama House of Representatives has passed a bill which would disallow state government from specifying which types of businesses are allowed to stay open during situations such as the coronavirus pandemic.

The bill — which applies to a "pandemic, epidemic, bioterrorism event, or

the appearance of a novel or previously controlled or eradicated infectious disease or biological toxin," according to the text — would not limit the implementation of public health guidance, but it would allow houses of worship and businesses, equally, to remain open if they follow those guidelines.

Supporters of the legislation noted that it would allow small businesses to remain open, not just large chains like Walmart. The National Federation of Independent Businesses (NFIB) supports the legislation, which now heads to the state Senate.

Southern Union Conference of Seventh-day Adventists
Public Affairs and Religious Liberty
P.O. Box 923868
Peachtree Corners, GA 30010

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Native Americans Appeal in Two Religious Freedom Cases

Two different groups of Native Americans have brought cases to a federal appeals court. Both are trying to stop the government from destroying sacred sites where they have worshiped for generations, and are seeking the same protections as other faith groups.

The first, brought by the Confederated Tribes and Bands of the Yakama Nation and the Confederated Tribes of Grande Ronde (Slockish v. U.S. Federal Highway Administration), dates back to

2008 when the government destroyed a sacred site of burial grounds, stone altar, and campground in Oregon. The site was bulldozed, despite repeated alerts by tribal members. Ironically, a nearby wetlands and tattoo parlor were protected. The case is finally moving forward after years in limbo.

The second case was brought by Apache Stronghold (Apache Stronghold v. United States), a nonprofit community organization dedicated to the defense of Native American sacred

sites. They filed to save a sacred site called Oak Flat, slated to be destroyed by a copper mine. The site is in the National Register of Historic Places; thought protected for more than six decades, a 2014 rider to the National Defense Authorization Act allowed the land to be transferred to UK/Australian-owned Resolution Copper mining company.

"All we want is the return of our sacred artifacts, the

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