



UPDATE

Fall 2018



FREE TO BE FAITHFUL®

In response to increasing intrusions by government in the realm of the church, the LCMS launched the "Free to be Faithful" campaign in September 2012 to educate and move people to take informed action to protect religious freedom and all the cultural issues that pertain to it: confessing the faith in the public square, marriage, defending the sanctity of human life and related issues affecting religious liberty.

In 2016, the Synod in convention adopted Resolution 14-01 to encourage education and leadership in matters of religious freedom.

For LCMS Free to be Faithful resources and news, visit lcms.org/socialissues/freetobefaitful.

IN THE MILITARY

Army chaplain Squires cleared of all charges

by Brandon Elrod

FORT BRAGG, N.C. (BP) — The U.S. Army has dropped its investigation against Southern Baptist chaplain Jerry Scott Squires, fully exonerating the major of all charges today (Aug. 24).

Squires, who had been charged with discrimination against a lesbian soldier who wanted to attend a marriage retreat, handled the situation in accordance with military policy and followed the guidelines of his denominational authority, the Army said.

"This is great news for both Chaplain Squires and all of the military chaplains who are serving our men and women the U.S. Armed Services," said Gen. Douglas Carver, executive director of chaplaincy at the North American Mission Board (NAMB). "It is a significant victory for all who support and defend the freedoms guaranteed by the First Amendment of the U.S. Constitution, especially regarding the freedom of religion."

Squires had been charged with unlawful discrimination and dereliction of duty, and could have faced confinement in a military prison.

Carver thanked Squires' commanding general "for having the moral courage to make the correct but difficult decision regarding the investigation into Chaplain Squires."

In early 2018, Squires told a soldier that he could not perform a marriage retreat for the soldier and the soldier's same-sex partner, and Squires provided an alternative by rescheduling the event so that another



► bpnews.net/51489/army-chaplain-squires-cleared-of-all-charges

chaplain could conduct the retreat.

An Army investigating officer initially determined that Squires had discriminated against the soldier and recommended that Squires face disciplinary action.

Mike Berry, the attorney from First Liberty Institute representing Squires, argued that Squires' actions adhered to

Army protocol by taking the appropriate steps to provide the service that Squires could not personally oversee or attend per the policy of his endorser.

The Army today agreed that Squires followed the correct procedure.

Throughout the process, Squires continued to fulfill his duties as an Army chaplain; but with the investigation dismissed, he no longer has to worry about the prospect of facing disciplinary action.

"Few chaplains have endured the investigative scrutiny that Chaplain Squires suffered over the last seven months," Carver said. "We applaud Chaplain Squires and all chaplains like him who remain dedicated to their faith while seeking to respect all persons within the diverse military community."

NAMB, the entity that endorsed Squires, augmented its ministry guidelines for chaplains in 2013 after the Supreme Court struck down Section 3 of the Defense of Marriage Act, which defined marriage only in terms of opposite sex unions. Southern Baptist chaplains are expected to respectfully serve within the pluralistic culture of the military with grace and charity, obeying such biblical commands as Romans 12:18 to, if at

ON CAMPUS

Trinity Western University, Charter Values and Charter Rights

► ipolitics.ca/article/trinity-western-university-charter-values-and-charter-rights/

by Barry W. Bussey

On June 15, 2018, the Supreme Court of Canada released two decisions against Trinity Western University's bid to operate a law school, one involving the Law Society of British Columbia and the other involving the Law Society of Ontario. Simply put, these decisions are going to have a lasting effect on how we understand and apply the Charter right of religious freedom in Canada.

Trinity, a small Christian university in British Columbia, requires students to sign a "Community Covenant" saying that they will respect the school's religious teachings, including the requirement that sexual intimacy be reserved for the traditional marriage of one man and one woman. The law societies claimed this was discriminatory and refused to accredit Trinity's proposed law school on that basis. The Supreme Court has now ruled by a vote of 7 to 2 that the law societies' decisions were reasonable.

Continued on pg. 3



KFuo Free to be Faithful – Religious Liberty in the United States

Kip Allen hosts Mr. Timothy Goeglein, LCMS member and vice president for External Relations for Focus on the Family, to discuss judicial appointments, court cases and the impact of the sexual revolution on freedom of conscience. kfuo.org/2018/06/20/ftbf-062018-religious-liberty-in-the-united-states/

Continued on pg. 2

Photo: First Liberty

Free to be Faithful Update | lcms.org/socialissues/freetobefaitful

Tables Have Turned:

Christian Baker Goes on Offensive, Sues State of Colorado

by Randy DeSoto

The Christian baker who won a case at the Supreme Court in June guaranteeing his right not to have to bake a cake for a same-sex wedding is suing Colorado after the state filed a complaint against him for refusing to create a cake celebrating a man's gender transition.

Jack Phillips, the owner of Masterpiece Cakeshop, won a 7-2 decision against the state of Colorado, with then-Justice Anthony Kennedy writing in the majority opinion that state officials had been "neither tolerant nor respectful" of the Christian's beliefs about marriage.

Kennedy added that the Colorado Civil Rights Commission showed "clear and impermissible hostility toward the sincere religious beliefs that motivated his objection."

Despite this ruling, the Commission filed a complaint against Phillips late last month charging him with discrimination after he declined to bake a cake celebrating a gender transition.

In a [Wednesday press release](#), Alliance Defending Freedom — the religious liberty law firm that represented Phillips at the Supreme Court — recounted the man (attorney Autumn Scardina) asked their client to create a cake pink on the inside and blue on the outside, which Scardina said was to celebrate a gender transition from male to female.

The request to bake the cake came the very day — June 26, 2017 — the Supreme

Court had agreed to take up Phillips' suit against the Commission regarding baking a same-sex wedding cake.

Alliance Defending Freedom attorney Kristen Waggoner said on Wednesday, "The state of Colorado is ignoring the message of the U.S. Supreme Court by continuing to single out Jack for punishment and to exhibit hostility toward his religious beliefs."

She continued, "Even though Jack serves all customers and simply declines to create custom cakes that express messages or celebrate events in violation of his deeply held beliefs, the government is intent on destroying him — something the Supreme Court has already told it not to do."

ADF's complaint filed on behalf of Phillips notes, "The Constitution stands as a bulwark against state officials who target people — and seek to ruin their lives — because of the government's anti-religious animus. For over six years now, Colorado has been on a crusade to crush Plaintiff Jack Phillips ... because its officials despise what he believes and how he practices his faith."

The complaint charges the latest attempt to prosecute Phillips is in direct conflict with the Supreme Court's ruling and that the federal suit is "necessary to stop Colorado's



Alliance Defending Freedom

continuing persecution of Phillips."

ADF is seeking an injunction against the Colorado Civil Rights Commission from taking any further action against Phillips.

In an Op-Ed for [USA Today](#), the baker explained why he declined Scardina's requested cake.

"Because I believe that each person's sex — whether male or female — is given by God and cannot be chosen or changed, the requested message is not one that I can express through my cake art," he wrote. "But my shop still told the caller that we'd be happy to sell them other items or design cakes with other messages."

David French, who previously worked as an attorney with ADF, noted in a piece for the [National Review](#) that Scardina apparently targeted Phillips with multiple requests that he anticipated would be offensive to the Christian.

"In September 2017, a caller asked Phillips to design a birthday cake for Satan that would feature an image of Satan smoking marijuana. The name 'Scardina' appeared on the caller identification," recounted French based on ADF's complaint.

"A few days earlier, a person had emailed Jack asking for a cake with a similar theme — except featuring 'an upside-down cross, under the head of Lucifer,'" French added.

Phillips believes his federal suit against Colorado is the only proper course of action.

"I have no choice now but to sue, via my Alliance Defending Freedom attorneys, the state officials who are discriminating against me," he wrote in his [USA Today](#) Op-Ed. "My hope is that the federal court will put an end to this bullying — and that it will do so soon. I'd like to get back to the life that my state keeps taking from me."

Randy DeSoto is a senior staff writer for The Western Journal.

Squires continued from pg. 1

all possible, "live at peace with everyone."

"From the moment the investigation began," Carver said, "Southern Baptists have stood behind chaplain Squires with their prayerful support, wise counsel, and encouraging words. Our partners in the Gospel from other denominations faithfully stood with us as well. We are here to ensure that our chaplains can exercise their religious freedom and model the tenets of our faith as Southern Baptists in an uncompromising and Christ-honoring manner."

More than 1,600 Southern Baptist chaplains serve the U.S. military. NAMB endorses those chaplains on behalf of the Southern Baptist Convention.

Brandon Elrod writes for the North American Mission Board, Baptist Press.

UPDATE:

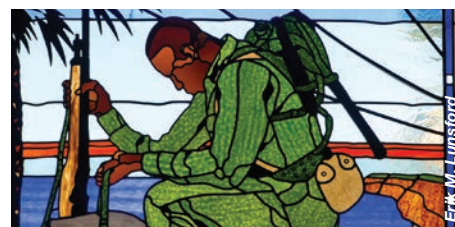
LCMS Director of Ministry to the Armed Forces, Rev. Craig Muehler (CAPT, CHC, USN (Ret.)) is President of the Chaplain's Alliance for Religious Liberty. On August 21, 2018, only days before Squires' exoneration, this Alliance of more than 30 denominational chaplains sent a letter to Army Secretary, Mark Esper, requesting that he immediately put a halt to proceedings against Chaplain Squires and restore his good name and service record.

The letter may be read in its entirety here: static1.squarespace.com/static/59e271bfbeabf1f336f48b8/t/5b7ec67562fa7f165511f95/1535035064895/The+Honorable+Dr+Mark+Esper1.pdf



KFUO Free to be Faithful – Disciplined for Following Procedure

Jeremy Dys, Esq., Deputy General Counsel for First Liberty Institute, talks about the case of Chaplain Scott Squires. This Kip Allen interview points out deep implications for all of our LCMS chaplains. kfuo.org/2018/08/15/tbf-081518-disciplined-for-following-procedure/



A PRAYER FOR ARMISTICE DAY, November 11:

O Lord God almighty, whose arm is powerful to defend and protect all that put their trust in Thee, we commend to Thy fatherly care the men and women who are bearing arms in defense of our country at home or abroad. We pray Thee, keep them under the shadow of Thy wings; be Thou their strength in all danger, in distress, and in temptations. Give them courage, boldness, and faithfulness in the performance of their duty. In life and death may they put their trust in Thee, who art the only Giver of victory; through Jesus Christ, our Lord. Amen.

However, I take the position that the Supreme Court's decisions were themselves unreasonable and are a harbinger for serious disputes to come.

First, until this decision, the law societies had no statutory authority to investigate the admissions policies of law schools. Their role was to ascertain whether graduates will be competent to practice law. No one has contested the academic calibre of TWU's program, with its innovative focus on practical training, charity law, and justice for the marginalized and impoverished.

Despite this, the Court majority claimed that the law societies were operating in the "public interest" and were therefore entitled to go beyond their mandate to promote the "Charter value" of "equality." According to the Court, such "values" are now "accepted principles of constitutional interpretation."

This is a worrying development. Here's why. Charter "values" are subjective. As dissenting justices Côté and Brown observe, Charter values are "entirely the product of the idiosyncrasies of the judicial mind that pronounces them to be so." One judge may have a different set of values than another and they may or may not be shared by all Canadians.

But it gets worse. As Côté and Brown explain, these "amorphous" and "undefined" values are being used to limit "constitutionally protected rights." They enable the Court to enact "moral judgments" without regard for the written principles of the Charter.

Applied to this case, we see that Trinity has a constitutionally protected right to religious freedom, which allows them to operate in accordance with their biblically-based beliefs. In 2001, the Supreme Court of Canada affirmed they had that right. Now, the same Court has elevated the "offense" mantra of identity politics to a "Charter value" which is, apparently, sufficient to limit that right.

In ominous language, Côté and Brown criticize the majority's abstract use of the term "equality," noting that "equality in an absolute sense is also perfectly compatible with a totalitarian state, being easier to impose where freedom is limited."

And, while former Chief Justice McLachlin felt that accrediting TWU would amount to condoning discrimination, Côté and Brown rightly pointed out that the "role of courts in these cases is 'not to produce social consensus, but to protect the democratic commitment to live together in peace.'"

That is the crux of the matter. How can we live in peace together while still maintaining our differences of opinion and practice on fundamental human life issues such as marriage, abortion, and end of life? Religious communities by their very nature speak to

these issues and more. The majority talked about diversity but did so in a manner that excludes the religiously committed from the public square.

A few weeks ago, the Supreme Court ruled in the Wall case that religious bodies are free to determine their own internal rules without interference from the courts unless there is a legal right at play. In that decision, Justice Rowe rejected the notion that accreditation or licensing conferred state authority. Yet in this case, the Court held TWU indirectly accountable to the Charter because of the law societies' supposed obligation to uphold "Charter values".

It seems that the courts are comfortable with religious communities if they are confined to the four walls of their churches, mosques, or temples. They are not so comfortable when religious teachings are applied to enterprises outside the church (such as running a university). In essence, the Court seems to be restricting the Charter right of religious freedom to an individual, private concept of faith, rather than recognizing the communal aspects of religious practice.

We have not heard the end of this case yet. Côté and Brown stated that the method by which the Court came to its conclusions "betrays the promise of our Constitution."

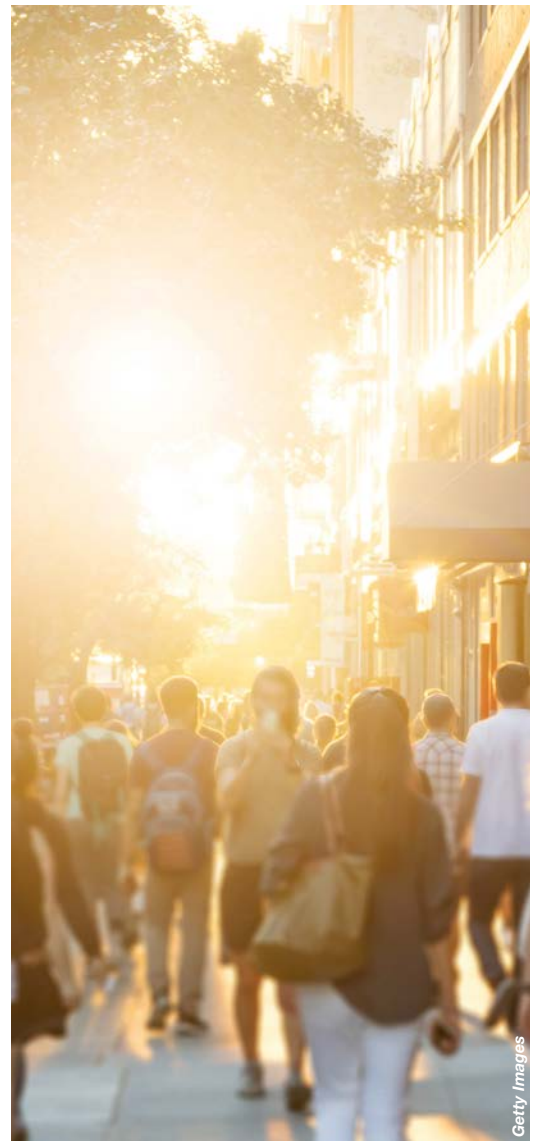
I have nothing to add to that.

Barry W. Bussey (Ph.D. candidate, University of Leiden) is Director, Legal Affairs at Canadian Council of Christian Charities, and Adjunct Associate Professor at University of Notre Dame Australia. He intervened in the Trinity Western Law School Case in British Columbia, Nova Scotia, Ontario, and the Supreme Court of Canada.

UPDATE:

In an August 9, 2018 press release, Trinity Western's Board of Governors announced that that "the Community Covenant will no longer be mandatory" for new or returning students (only for faculty and staff). At the same time President Robert Kuhn insists that TWU remains "fully committed to our foundational evangelical Christian principles."

Nevertheless, even these measures may not be enough to revive hopes for the law school. Advocacy groups have labelled this only as a "first step," and indicated that the very existence of the Community Covenant should be enough to disqualify TWU from supplying accredited lawyers.



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A Prayer for Election Day, November 6, 2018:

Lord, keep this nation under your care. Bless the leaders of our land, that we may be a people at peace among ourselves and a blessing to the other nations of the earth. Help us provide trustworthy leaders, contribute to wise decisions for the general welfare, and thus serve you faithfully in our generation to the honor of your holy name; through Jesus Christ, our Lord. Amen.



KFUO Free to be Faithful – Religious Liberty Executive Order: One Year Later

Kip Allen talks with Travis Weber of the Family Research Council. Taking up President Trump's May 2017 Executive Order on Religious Liberty, they ask: What has been done, and what still needs doing?

kfuo.org/2018/05/16/ftbf-051618-religious-liberty-executive-order-one-year-later/



Erik M. Lunsford

Department of Justice: Principles of Religious Liberty

(October 6, 2017), “Religious liberty is a foundational principle of enduring importance in America, enshrined in our Constitution and other sources of federal law. As James Madison explained in his Memorial and Remonstrance Against Religious Assessments, the free exercise of religion “is in its nature an unalienable right” because the duty owed to one’s Creator “is precedent, both in order of time and in degree of obligation, to the claims of Civil Society.” Religious liberty is not merely a right to personal religious beliefs or even to worship in a sacred place. It also encompasses religious observance and practice. Except in the narrowest circumstances, no one should be forced to choose between living out his or her faith and complying with the law. Therefore, to the greatest extent practicable and permitted by law, religious observance and practice should be reasonably accommodated in all government activity, including employment, contracting, and programming. The following twenty principles should guide administrative agencies and executive departments in carrying out this task. These principles should be understood and interpreted in light of the legal analysis set forth in the appendix to this memorandum.

1. The freedom of religion is a fundamental right of paramount importance, expressly protected by federal law.
2. The free exercise of religion includes the right to *act or abstain from action* in accordance with one’s religious beliefs.
3. The freedom of religion extends to persons *and* organizations.

4. Americans do not give up their freedom of religion by participating in the marketplace, partaking of the public square, or interacting with government.
5. Government may not restrict acts or abstentions because of the beliefs they display.
6. Government may not target religious individuals or entities for special disabilities based on their religion.
7. Government may not target religious individuals or entities through discriminatory enforcement of neutral, generally applicable laws.
8. Government may not officially favor or disfavor particular religious groups.
9. Government may not interfere with the autonomy of a religious organization.
10. The Religious Freedom Restoration Act [RFRA] of 1993 prohibits the federal government from substantially burdening any aspect of religious observance or practice, unless imposition of that burden on a particular adherent satisfies strict scrutiny.
11. RFRA’s protection extends not just to individuals, but also to organizations, associations, and at least some for-profit corporations.
12. RFRA does not permit the federal government to second-guess the reasonableness of a religious belief.
13. A governmental action substantially burdens an exercise of religion under RFRA if it bans an aspect of an adherent’s religious observance or practice, compels an act inconsistent with that observance or practice, or substantially pressures the adherent to modify such observance or practice.
14. The strict scrutiny standard applicable to RFRA is exceptionally demanding.

IN WASHINGTON, D.C.

In October 2017, the Department of Justice “issued guidance to all administrative agencies and executive departments regarding religious liberty protections in federal law.” This guidance was required by an executive order signed on May 4, 2017. It is given to explain and clarify current federal law covering how the government is required to protect the religious freedom of citizens, federal employees, and agencies working with the government.

The entire Memorandum and its accompanying plan for implementation can be found here: <https://www.justice.gov/opa/pr/attorney-general-sessions-issues-guidance-federal-law-protections-religious-liberty>. Reprinted are its preamble and basic principles.

15. RFRA applies even where a religious adherent seeks an exemption from a legal obligation requiring the adherent to confer benefits on third parties.
16. Title VII of the Civil Rights Act of 1964, as amended, prohibits covered employers from discriminating against individuals on the basis of their religion.
17. Title VII’s protection extends to discrimination on the basis of religious observance or practice as well as belief, unless the employer cannot reasonably accommodate such observance or practice without undue hardship on the business.
18. The Clinton Guidelines on Religious Free Exercise and Religious Expression in the Federal Workplace provide useful examples for private employers of reasonable accommodations for religious observance and practice in the workplace.
19. Religious employers are entitled to employ only persons whose beliefs and conduct are consistent with the employers’ religious precepts.
20. As a general matter, the federal government may not condition receipt of a federal grant or contract on the effective relinquishment of a religious organization’s hiring exemptions or attributes of its religious character.”



LUTHERAN CENTER FOR RELIGIOUS LIBERTY

Encourage, Educate, Advocate



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KEEP UP TO DATE on what's happening with the Lutheran Center for Religious Liberty (LCRL) at LCRLFreedom.org, or on our "Lutheran Center for Religious Liberty" Facebook page. The LCRL's mission is to ignite and fuel a uniquely Lutheran response to increasing intrusions, limitations and challenges by the government in the life of the Church, while educating, encouraging and equipping LCMS members and organizations to take informed action in support of marriage, life and religious freedom.

One of the ways to "get on board," is to prayerfully receive our "Word from the

Center" devotions and "Word from the Center" D.C. updates. On our "Word from the Center-Mondays," you'll receive a devotional reflection from God's Word. At the end of the week, "Word from the Center-Fridays," you'll receive a Two-Kingdom reflection from the LCRL about a topic, issue or court case that concerns the issues of liberty, life, marriage and occasionally issues concerning education. When you receive the "Word from the Center," I believe that you will be blessed by God's Word and will become better informed on how to be a more useful citizen in His Hands for the sake of the proclamation of the Gospel for all.

TO SUBSCRIBE to our semi-weekly "Word from the Center" encouragement, please email us at info@lcrifreedom.org.

Our influence on the Hill is growing with our partnerships in the cause of religious liberty and life, with our commitment to be a balanced voice of God's Two-Kingdom work for the sake of our culture and our church, and with your prayerful consideration to be at work together with us. To that end, we serve.

FOR MORE INFORMATION about the LCRL, including ways to support it, visit lcms.org/lutheran-center-for-religious-liberty or contact Martha Dahlke at martha.mitkos@lcms.org or 888-248-1930.



KFUO Free to be Faithful – Reclaiming Liberties for People of Faith

The Rev. Dr. Gregory Seltz, executive director of the Lutheran Center for Religious Liberty in Washington, D.C., joins moderator Kip Allen to talk about maintaining the clear distinction

between God's two kingdoms, or realms, while fulfilling our God-given vocation in each.

kfuo.org/2018/07/18/ftbf-071818-reclaiming-liberties-for-people-of-faith/

Join the conversation by listening

to Worldwide KFUE host Kip Allen moderate *Free to be Faithful*® discussions on KFUE.org at 2:30 p.m. Central time on the third Wednesday of each month.

Previously broadcast interviews also are available at kfuo.org/category/free-to-be-faithful.



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