

FREEDOM FROM RELIGION *foundation*

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March 26, 2020

SENT VIA FAX:
(304) 342-7025

The Honorable Jim Justice
Office of the Governor
State Capitol
1900 Kanawha Blvd. E
Charleston, WV 25305

Re: Misusing secular gubernatorial office to promote prayer

Dear Governor Justice:

I am writing on behalf of the Freedom From Religion Foundation regarding recent constitutional violations by your office. FFRF is a national nonprofit organization with more than 31,000 members across the country, including many members in West Virginia. FFRF's purposes are to protect the constitutional principle of separation between state and church and to educate the public on matters relating to nontheism.

On March 23, 2020, you gave a news conference in which you declared that March 25, 2020, would be a statewide day of prayer. You admonished West Virginia's citizens to "[P]lease in every way shape, form, or fashion keep consulting your God above and absolutely every one of us will get through this."¹

These actions amount to an endorsement of religion, specifically Christianity, in contravention of the Establishment Clause of the First Amendment.

The First Amendment wisely prohibits government sponsorship of religious messages. The Supreme Court has said time and again that the "First Amendment mandates government neutrality between religion and religion, and between religion and nonreligion." *McCreary Cnty., Ky. v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844, 860 (2005); *see also Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Ark.*, 393 U.S. 97, 104 (1968); *Everson v. Board of Educ. of Ewing*, 330 U.S. 1, 15–16 (1947). Urging, in your official capacity, the citizens of West Virginia to pray sends the message that you, as governor, and the State of West Virginia prefer and endorse religion, specifically the Christian faith. This violates the First Amendment.

We write to remind you that, as governor, you represent a diverse population that consists not only of religious individuals, but of atheists and agnostics who do not believe in a deity, much less the power of prayer. To suggest that citizens pray and to declare a statewide day of prayer sends the unfortunate official message of endorsement of religion over non-religion by the highest executive office in the

¹ <https://governor.wv.gov/News/press-releases/2020/Pages/COVID-19-UPDATE-Gov.-Justice-orders-West-Virginians-to-stay-home;-announces-statewide-day-of-prayer-and-more.aspx>.

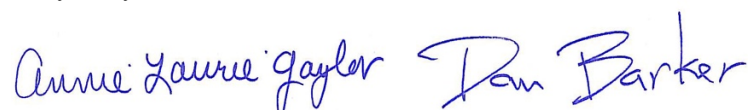
state. A message to encourage safety and show governmental concern in a time of hardship could have been effectively conveyed without this unnecessary entanglement of government and religion. Therefore, we urge you in the future to refrain from promoting religion in your official capacity as governor of West Virginia. As you know, we have had to contact you on several recent occasions to object to similar constitutional issues.

Non-religious Americans make up the fastest growing segment of the U.S. population by religious identification—35 percent of Americans are non-Christians,² and this includes the more than one in four Americans who now identify as religiously unaffiliated.³ Declaring a day of prayer and asking your constituents to pray signals to this sizeable minority “that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.” *Lynch v. Donnelly*, 465 U.S. at 668, 688 (1984) (O’Connor, J., concurring). Furthermore, your request to “[P]lease in every way shape, form, or fashion keep consulting your God above and absolutely every one of us will get through this,” is particularly misguided, as we already know that not everyone will get through this. The death toll in the United States is already over 700⁴ and climbing. Prayer will not prevent more deaths, though swift governmental action marshalling medical science and evidence-based action to contain the virus might.

In conclusion, we ask that you, as governor of West Virginia, remain cognizant that you have taken an oath to uphold and defend the U.S. Constitution—an entirely godless and secular document, and are charged with great responsibility over citizens, including those citizens who may not share your personal religious viewpoints. Leaving religion as a private matter for private citizens is the wisest public policy. Observing a strict separation of state and church offends no one and honors the First Amendment to the U.S. Constitution.

We appreciate the courtesy of your attention to this matter and encourage you to stand up for the precious constitutional principle of the Establishment Clause, which unites and protects all citizens, believers and non-believers alike.

Very truly,



Annie Laurie Gaylor & Dan Barker
Co-Presidents

² *In U.S., Decline of Christianity Continues at Rapid Pace*, PEW RESEARCH CENTER (Oct. 17, 2019), available at <https://www.pewforum.org/2019/10/17/in-u-s-decline-of-christianity-continues-at-rapid-pace/>.

³ *Id.*

⁴ <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>.