

FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 · MADISON, WI 53701 · (608) 256-8900 · WWW.FFRF.ORG

October 2, 2019

SENT VIA U.S. MAIL AND EMAIL
rkersey@scotlandcounty.org

Sheriff Ralph Kersey
Scotland County Sheriff's Office
212 Biggs St.
Laurinburg, NC 28352

Re: Sheriff's Office Establishment of Religion

Dear Sheriff Kersey:

I am writing on behalf of a concerned Scotland County Sheriff's Office employee, as well as other North Carolina members of the Freedom From Religion Foundation (FFRF), to stress serious legal and constitutional issues with the religiously discriminatory policies of the Scotland County Sheriff's Office. FFRF is a nationwide nonprofit organization with over 30,000 members across the country, including more than 600 members in North Carolina. Our purpose is to protect the constitutional principle of separation between state and church and educate the public about matters related to nontheism.

We have received information that your office has impermissibly endorsed religion through threats to the employment of those who do not comply with the discriminatory policy quoted below (emphasis added):

Effective Immediately!

The policy has been changed in reference to Cohabitation. The policy change will be distributed on Monday. It will be prohibited for you to live with another while employed at the Scotland County Sheriff's Office unless you are officially married according to the **law and word of God**, sisters, brothers, or family by blood. This shall not apply to those whom are currently cohabiting. However, if your current relationship with the other party should cease, you will comply with the new policy change.

Thank you

Sheriff

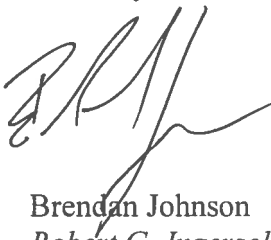
We write to request that the Scotland County Sheriff's Office rescind this blatantly unconstitutional policy and immediately cease its enforcement.

The Sheriff's Department cannot endorse any religion and should not issue religiously discriminatory policies to be enforced against its employees—these practices are unconstitutional. The United States Constitution “guarantees that government may not coerce anyone to support or participate in religion or its exercise, or otherwise act in a way which establishes a [state] religion or religious faith, or tends to do so.” *Lee v. Weisman*, 505 U.S. 577, 587 (1992) (internal quotations omitted). The Supreme Court has stated that “no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.” *West Virginia Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943). By instating a policy that limits employees' behavior outside of work to that which you deem to be “according to the law and word of God,” your office unconstitutionally promotes religion and threatens to punish those who believe differently.

Additionally, North Carolina's statute banning cohabitation of unmarried persons was ruled unconstitutional in 2006 because it violated the substantive due process right to liberty under the Equal Protection Clause of the Fourteenth Amendment. *See Hobbs v. Smith*, No. 05 CVS 267, 2006 WL 3103008, at *1 (N.C. Super. Aug. 25, 2006) (citing *Lawrence v. Texas*, 539 U.S. 558, 123 S.Ct. 2472, 156 L.Ed.2d 508 (2003)). This seriously undermines any argument that the Sheriff's Department cohabitation policy has anything to do with compliance with North Carolina law.

To abide by the Constitution, the Scotland County Sheriff's Office must immediately end this policy and refrain from instituting any others like it. Please inform us in writing of the steps that are taken to remedy this violation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brendan Johnson', written over a horizontal line.

Brendan Johnson
Robert G. Ingersoll Legal Fellow
Freedom From Religion Foundation