

FREEDOM FROM RELIGION *foundation*

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

July 25, 2018

SENT VIA FAX & U.S. MAIL
740-393-3805

The Honorable Richard Wetzel
Knox County Court of Common Pleas, General Division
118 E High St.
Mt. Vernon, OH 43050

Dear Judge Wetzel:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to object to your practice of involving a prayer group in Knox County Court activities. FFRF is a national nonprofit organization with more than 32,000 members across the country and over 900 members and a chapter in Northern Ohio. Our purpose is to protect the constitutional principle of separation between state and church.

A concerned Mount Vernon resident reported that you regularly invite a prayer group to use the courthouse for religious activities and even to involve them in legal proceedings. Reports state that you host the group after hours at the courthouse and talk with them about cases you feel “have a particular need for prayer.”¹ According to a member of the prayer group, “Judge Wetzel got it started, we take no credit for any of this.” You claim that churches are an untapped resource, and that while some are involved in jail ministry, that their activity “could expand to mentoring in drug-related court cases.” Most troubling, however, you are quoted as saying, “An opportunity to have the churches directly engage in what the court is doing, is very important to me.”

We urge you to discontinue this unconstitutional practice.

Public officials may not use the prestige of government office to sponsor or promote religion. The oath of office requires judges to uphold the United States Constitution, including the First Amendment and its Establishment Clause. The Supreme Court has explained that “the prohibition against governmental endorsement of religion ‘preclude[s] government from conveying or attempting to convey a message that religion or a particular religious belief is favored or preferred.’” *Cnty. Of Allegheny v. ACLU Greater Pittsburgh Chapter*, 492 U.S. 573, 593 (1989). Government cannot “appear to take a position on questions of religious belief.” *Id.* at 594.

¹ Callan Pugh, *Group brings power of prayer to court*, Mount Vernon News (Jul. 16, 2018, 11:00 AM), <https://mountvernonnews.com/article/2018/06/28/group-brings-power-of-prayer-to-court/>.

In your official capacity, you are prohibited from endorsing religion over nonreligion, or one religious sect over another. The Supreme Court has driven this point home time and time again. The First Amendment “requires the state to be a neutral in its relations with groups of religious believers and non-believers.” *Everson v. Bd. of Educ. of Ewing*, 330 U.S. 1, 18 (1947); see also *Texas Monthly, Inc. v. Bullock*, 489 U.S. 1, 27-28 (1997) (“government may not favor religious belief over disbelief”) (Blackmun, J., concurring); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203, 305 (1963) (“[t]he fullest realization of true religious liberty requires that government . . . effect no favoritism among sects or between religion and nonreligion.”) (Goldberg, J., concurring); *Cnty. of Allegheny v. Am. Civil Liberties Union*, 492 U.S. 573, 593-94 (1989) (quoting *Wallace*, 472 U.S. at 70; *Lynch*, 465 U.S. at 687 (O’Connor, J., concurring)).

You are, of course, free to host bible studies in your private capacity as Mr. Wetzel, just not as Judge Wetzel. Furthermore, the Knox County Court of Common Pleas should not provide a space to promote Christian belief without charging fair market price. Religious groups have their own places of worship and do not require the county government to effectively subsidize their activities by providing a free venue in the courthouse. Let local religious groups who wish to host prayer meetings do so on their own property or else pay a fee to reimburse the county for the expenses of keeping the courthouse open after-hours. Once the Court of Common Pleas enters the religion business, it strikes a blow against religious liberty, forcing taxpayers of all faiths and of no religion to support a particular expression of worship.

You should also be advised that a substantial body of case law holds court-ordered religious programming is patently illegal. See *Jackson v. Nixon*, 747 F.3d 537 (8th Cir. 2014) (“a parole stipulation requiring [an offender] to attend and complete a substance abuse program with religious content in order to be eligible for early parole violates the Establishment Clause of the First Amendment.”). The *Jackson* court held that a Department of Corrections director and the director of the substance abuse treatment program could each be held personally liable under § 1983 for violating an atheist prisoner’s First Amendment free exercise rights by requiring his participation in religious activities as a condition of the program. *Id.* at 544–45.

Other federal courts uniformly agree that mandatory participation in religious programs, such as Alcoholics Anonymous, violates the Establishment Clause. See, e.g., *Inouye v. Kemna*, 504 F.3d 705, 714 n.9 (9th Cir. 2007) (holding that “the AA/NA program involved here has such substantial religious components that governmentally compelled participation in it violated the Establishment Clause”); *Warner v. Orange Cnty. Dept. of Probation*, 115 F.3d 1068 (2nd Cir. 1997) (finding an Establishment Clause violation when the state required a probationer to attend AA meetings); *Kerr v. Ferrey*, 95 F.3d 472, 480 (7th Cir. 1996) (holding mandatory AA participation unconstitutional).

As the above case law suggests, should you make good on your suggestion of “tapping” church groups to be a resource for reforming criminal behavior, you will violate your oath of office as well as the Constitution.

Overall, 24% of Americans identify as religiously unaffiliated and nearly 30% are non-Christians, either practicing a minority religion or no religion at all.² For younger Americans, the numbers are higher. A recent survey found that 21 percent of Americans born after 1999 are atheist or agnostic, and a total of 42% are not Christian.³ To entangle law and the Christianity denigrates a sizable, growing population of Ohioans who do not share your religious views. By inviting the group to enmesh themselves with the administration of the law, you create doubt that citizens will receive a fair trial under secular law rather than a version of justice dependent on religious beliefs.

Accordingly, we have sent the enclosed open records request to the Knox County Clerk of Courts to gauge the depth of these constitutional violations.

We commend you for looking for resources to make justice restorative and to rehabilitate offenders. You may accomplish this by relying on medical and psychological professionals. You may not use the power, prestige, and credibility of the gavel to impose your religion on a literally captive audience.

You are, of course, free to pray or consult with religious groups as a private citizen outside of your courtroom. However, when you provide a free, exclusive venue in your courtroom for a prayer group to conduct its religious activities, you create the unmistakable impression that the Knox County Court of Common Pleas favors religion over nonreligion and give a financial benefit to religion. Your courtroom belongs to *all* the people of Knox County, regardless of their religious affiliation.

Sincerely,



Andrew Seidel
Staff Attorney

ALS:jbm

Enclosure

² Robert P. Jones & Daniel Cox, *America's Changing Religious Identity*, PUBLIC RELIGION RESEARCH INSTITUTE (Sept. 6, 2017), available at www.prri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf.

³ *Atheism Doubles Among Generation Z*, The Barna Group (Jan. 24, 2018), available at <https://www.barna.com/research/atheism-doubles-among-generation-z/>.

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July 25, 2018

SENT VIA EMAIL & U.S. MAIL
clerkofcourts@co.knox.oh.us

Mary Jo Hawkins
Clerk of Courts
Knox County Courts
117 E. High Street
Mt. Vernon, OH 43050

Dear Ms. Hawkins:

I am writing on behalf of a concerned Knox County resident and taxpayer who objects to the involvement of prayer groups in Knox County legal proceedings and to their free, after-hours use of county property and resources to conduct religious activities.

The Freedom From Religion Foundation (FFRF) is a national nonprofit organization with more than 32,000 members across the country and over 900 members and a chapter in Ohio. Our purpose is to protect the constitutional separation between state and church.

For the purposes of this request, “prayer group” refers to any of the individuals discussed in the Mount Vernon News article titled “Group brings power of prayer to court” or otherwise involved with the courtroom prayer activities.¹

Pursuant to the Ohio Open Records Law, Ohio Rev. Code Section 149.43, I hereby request the following records from 2016 to the present:

1. Any policy regarding use or rental of county property by private groups.
2. Any contact or rental agreement between prayer groups and Knox County regarding use of the Knox County Courthouse.
3. Any receipt or record of payment from the prayer group or its participants to Knox County for use of county facilities and resources.

¹ Callan Pugh, *Group brings power of prayer to court*, Mount Vernon News (Jul. 16, 2018, 11:00 AM), <https://mountvernonnews.com/article/2018/06/28/group-brings-power-of-prayer-to-court/>.

4. All correspondence (including letters and emails) between the Knox County Court of Common Pleas or Judge Wetzel, and prayer group facilitators and participants, whether mentioned in the news article or not.

Please respond to this request without delay as required under Ohio law. If more time is needed to gather information responsive to one or more of the items above, please indicate that in your response. If you choose to deny any part of this request, please provide a written explanation of the denial including any references to statutory exemptions or case law upon which you rely. If any of these records are available electronically, they may be emailed to aseidel@ffrf.org.

FFRF is a 501(c)(3) nonprofit that works to ensure government bodies comply with the First Amendment. As a nonprofit working for the public interest, we request any fees associated with this request be waived or, at the very least, discounted.

Thank you for your time and attention to this matter. Please feel free to contact me with any questions, concerns, or clarifications at aseidel@ffrf.org or 608-230-8449.

Sincerely,



Andrew Seidel
Staff Attorney

ALS:jbm

Andrew Seidel
Staff Attorney

ALS:jbm

CC: The Honorable Richard Wetzel