

FREEDOM FROM RELIGION *foundation*

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November 24, 2014

SENT VIA U.S. MAIL & EMAIL

bill.baker@piedmontcity.org

The Honorable Bill Baker
Mayor of Piedmont
109 N Center Ave
Piedmont, AL 36272

Re: Religious Christmas Parade

Dear Mayor Baker:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to alert you to a serious constitutional concern occurring in Piedmont. FFRF is a national nonprofit organization with over 21,500 members across the country, including over 200 members in Alabama and a local chapter, the Alabama Freethought Association. Our purpose is to protect the constitutional principle of separation between state and church.

We are informed that the theme of Piedmont's Christmas parade this year is "Keep Christ in Christmas," which supposedly "reflect[s] our strong belief in prayers." We understand City employees coordinate and plan the parade, which is scheduled for December 4. If this information is erroneous, which seems likely given its blatantly unconstitutional theme, please let us know.

The City's coordination of this religious event poses serious constitutional separation of state and church concerns. The Establishment Clause of the First Amendment to the United States Constitution prohibits the government from endorsing, advancing or promoting religion. A government celebration of Christmas is only permissible because courts have ruled certain aspects of the holiday, such as Christmas trees, to be secular symbols. The sentiment of "Keeping Christ in Christmas" does not qualify as part of the "secular . . . dimension" of Christmas. *County of Allegheny v. ACLU of Pittsburgh*, 492 U.S. 573, 579 (1989).

Therefore, it is illegal and inappropriate for the City to be hosting, organizing, supporting or otherwise promoting an event that advocates observing Christianity and praying. This sends the message that the City not only prefers religion over non-religion, but also Christianity over all other faiths. It alienates non-Christians and others in Piedmont who do not in fact have a "strong belief in prayers" by turning them into political outsiders in their own community. This includes the one in five Americans, and one in three Americans under 30, who are not religious.¹ The parade "sends the ancillary message to . . . nonadherents 'that they are outsiders, not full

¹ "Nones on the Rise: One-in-Five Adults Have No Religious Affiliation," Pew Research Center, The Pew Forum on Religion & Public Life (October 9, 2012), available at <http://www.pewforum.org/Unaffiliated/nones-on-the-rise.aspx>

members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309-10 (2000) (quoting *Lynch v. Donnelly*, 465 U.S. at 668 (O’Connor, J., concurring)).

The United States Supreme Court has held that public officials may not seek to advance or promote religion, specifically stating, “If there is any fixed star in our constitutional constellation, it is 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. If there are any circumstances which permit an exception, they do not now occur to us.” *West Virginia Board of Education v. Barnette*, 319 U.S. 624, 642 (1943).

“[T]he Supreme Court has repeatedly stated that the [Constitution is violated] if official action, regardless of its purpose, ‘conveys a message of endorsement or disapproval’ of religion.” *Roberts v. Madigan*, 921 F.2d 1047, 1054-55 (10th Cir. 1990) (citing *Wallace v. Jaffree*, 472 U.S. 38, 56 n. 42 (1985); *School District of Grand Rapids v. Ball*, 473 U.S. 373, 389 (1985); *Lynch v. Donnelly*, 465 U.S. 668, 690 (1984); *Lemon v. Kurtzman*, 430 U.S. 602, 619 (1971)). Put simply, government power cannot be “exploited to proselytize or advance any one, or to disparage any other, faith or belief.” *Marsh v. Chambers*, 463 U.S. 783 (1983).

In 1993, FFRF won an injunction against the mayor of Denver, Colorado, over his promotion, endorsement, and sponsorship of a “Day of Prayer.” See *FFRF, v. Denver*, No. 93 CV 6056 (District Court, City and County of Denver, Colorado 1993). In that case, the mayor designated a “city wide day of prayer.” The court enjoined the mayor and other City officials “acting in an official capacity, from promoting, endorsing, or supporting the Day of Prayer.” *Id.* at 5. It reasoned:

“[the event] would logically be interpreted by a reasonable person as an endorsement of religion. Because from all appearances Mayor Webb was acting in his official capacity in issuing the press release and conducting the press conference endorsing the Day of Prayer, the Court concludes that a reasonable person would interpret his conduct as governmental endorsement of religion. As such, it violates the Establishment Clause.” *Id.*

The City must select a more appropriate, more inclusive, and constitutional theme for its holiday parade. Piedmont must refrain from hosting, organizing, or otherwise coordinating religious events in the future, and no City staff should be a contact person for a religious event if acting in their official capacity. We request a response in writing about what steps you are taking to end this constitutional violation.

Sincerely,



Andrew L. Seidel
Staff Attorney

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