

FREEDOM FROM RELIGION *foundation*

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February 22, 2013

SENT VIA MAIL AND FAX – (615) 741-5337

Charles Traughber
Board Chairman, Tennessee Board of Probation & Parole
404 James Robertson Parkway, Suite 1300
Nashville, TN 37243

Re: Required Attendance at Christian Training Programs.

Dear Charles Traughber:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to object to the Tennessee Administrative Case Review Committee's practice of compelling attendance at Miracle Lake Christian Training Center as a condition of parole. FFRF is a nationwide nonprofit organization, which works to protect the constitutional principle of separation of church and state. FFRF has more than 19,000 members across the country. Tennessee is home to many FFRF members.

It is our understanding that the Administrative Case Review Committee (ACRC) has required some offenders to attend Miracle Lake Christian Training Center as a condition of their parole or as a sanction for parole violations without offering alternative treatment options. One offender (who we do not wish to name) contacted us regarding the required Miracle Lake attendance. We do not seek to address the specifics of that case, but we would like to provide information on this important issue.

The central components and philosophy of the Miracle Lake Christian Training program are religious in nature. The program is comprised of five phases: Repentance, Faith, Mind Renewal, Life in the Church, and Life Beyond.¹ The second phase requires participants to put their "trust and confidence in Jesus."²

Our organization receives a substantial number of complaints about religious drug treatment programs. Our complainants often express concern that they are being subjected to religion and pressure to conform to the religious practices of such support groups rather than receiving neutral, scientific assistance. Many describe experiencing ostracism after abstaining from participation in such overtly religious acts (such as prayer or professing belief in and reliance upon a gendered deity). This is particularly troubling when other support programs offer such

¹ Miracle Lake Christian Training Center, *Introduction by our Director, Rev. Jack Bryan*, available at, <http://www.miraclelake.org/introduction/introduction.html> (Last visited Feb. 20, 2013)

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benefits, but without the added religious/spiritual advocacy. CenterPointe Adult Services, located in Knoxville, Tennessee is one such organization.

Required attendance of persons by the state in religious-based treatment programs violates the First Amendment. The Establishment Clause guarantees that the “government may not coerce anyone to support or participate in religion or its exercise.” *Lee v. Weisman*, 505 U.S. 577, 587 (quoting *Lynch v. Donnelly*, 465 U.S. 668, 678). The Supreme Court has said that the “government may not promote or affiliate itself with any religious doctrine or organization, may not discriminate against persons on the basis of their religious beliefs and practices, may not delegate a governmental power to a religious institution, and may not involve itself too deeply in such an institution's affairs.” *County of Allegheny v. ACLU Greater Pittsburgh Chapter*, 492 U.S. 573, 590-91.

There is a substantial body of case law finding that significantly less egregious substance abuse treatment programs, like AA are religious programs for purposes of First Amendment analysis. In *Inouye v. Kemna*, the Ninth Circuit Court of Appeals held that “the AA/NA program involved here has such substantial religious components that governmentally compelled participation in it violated the Establishment Clause.” 504 F.3d 705, 714 n.9 (9th Cir. 2007). The Second Circuit Court of Appeals found an Establishment Clause violation when the state required a probationer to attend AA meetings. *Warner v. Orange County Dept. of Probation*, 115 F.3d 1068. The Court described the AA meetings as “intensely religious events.” *Id* at 1075. Likewise, the Seventh Circuit Court of Appeals found an Establishment Clause violation and said, “A straightforward reading of the twelve steps shows clearly that the steps are based on the monotheistic idea of a single God or Supreme Being.” *Kerr v. Ferrey*, 95 F.3d 472, 480 (7th Cir. 1996). These cases are in alignment with cases throughout the country. *See Cox v. United States*, 296 F.3d 89, 108 n.11 (2nd Cir. 2002) (“We are not alone in concluding that A.A.'s activities must be treated as religious for purposes of such Establishment Clause analysis...[T]o the best of our knowledge, no court presented with an Establishment Clause claim implicating A.A. or a comparable therapy program incorporating religious concepts has reached a contrary [conclusion]”).

Here, the ACRC has required some offenders to submit to overtly religious treatment as a condition of their parole. To avoid a serious constitutional conflict, the ACRC must provide offenders with a secular alternative. Other states have responded to this issue by allowing for non-religious, non-spiritual alternative programs. Addressing the challenges of rehabilitating offenders in such a manner protects rights of conscience and stops the current coercive and unconstitutional treatment requirements enforced by the Tennessee ACRC.

Sincerely,



Patrick C. Elliott
Staff Attorney

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