

FREEDOM FROM RELIGION *foundation*

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December 24, 2015

SENT via U.S. Mail and Email: Rep.Vos@legis.wisconsin.gov

The Honorable Robin Vos
Speaker of the House
Wisconsin House of Representatives
Room 211 West
State Capitol
P.O. Box 8953
Madison WI 53708

Re: Proselytizing messages promoted using state resources/Open records request

Dear Speaker Vos:

On behalf of the Freedom From Religion Foundation and our 1,300 nonreligious Wisconsin members (out of 23,000 members nationwide), we write to respectfully protest the overtly proselytizing message some state representatives have promoted using state resources.

It is our understanding that several state representatives have produced videos with Christmas messages and distributed those videos using their state email. Not all of the videos raise constitutional concerns, but Rep. Scott Allen's is particularly problematic.

Allen appears in his video in his official capacity as a state representative and uses the opportunity to proselytize non-Christians: "For those who may watch this who are not Christians, I invite you to consider the hope offered by the Prince of Peace." And he ends his message by saying: "Hebrews Chapter 10 concludes, '...we are not of those who shrink back and are destroyed, but of those who believe and are saved.'" His full remarks can be seen at the end of this letter and Allen's video can be viewed here: <https://youtu.be/i8owIsnpZkc>

It is unclear at this point whether state resources were used to produce this video, but we have included an open records request to determine if this is the case. It's our understanding that these messages, including Allen's proselytizing message, were distributed using state resources, specifically state email, which, if verified, is a misuse of governmental media.

When representatives speak as representatives, their speech is not private speech, but government speech subject to the requirements of the Establishment Clause. *See Garcetti v. Ceballos*, 547 U.S. 410, 421 (2006) ("We hold that when public employees make statements pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline."). While Allen is free to promote his personal religious beliefs on his own time, it is inappropriate to do so when he is afforded a special platform due to his elected position.

The Establishment Clause of the First Amendment 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) (quoting *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968); *Everson v. Bd. of Educ. of Ewing*, 330 U.S. 1, 15-16 (1947)). Using state resources to promote one particular religion, and suggesting that people should convert or even consider converting to that religion, is unconstitutional.

Not only is it legally problematic, it is also tasteless and factually inaccurate. Allen concludes:

Hebrews Chapter 10 concludes, “...we are not of those who shrink back and are destroyed, but of those who believe and are saved.”

This is actually Hebrews 10:38. The concluding passage, verse 39, proclaims that those who are not Christians—all those who reject Allen’s invitation to worship his particular deity—will be destroyed: “But we are not like those who turn away from God to their own destruction. We are the faithful ones, whose souls will be saved.” Verse 31 has already warned that “it is a terrible thing to fall into the hands of the living God.”

More than 23% Americans identify as nonreligious.¹ That 8 point increase since 2007² and 15 point jump since 1990 makes the “Nones” the fastest growing identification in America.³ Nationally, about 35% of millennials—born after 1981—are nonreligious.⁴ Nearly 30% of Americans are non-Christians, either practicing a minority religion or no religion at all, and about 44% of millennials are non-Christian.⁵

No bible or so-called “holy book” should be promoted using the power, infrastructure or imprimatur of our secular government government.

Open Records Request

Pursuant to Wis. Stat. §§19.31-19.39, we hereby request a copy of all records regarding the production of Rep. Scott Allen’s Christmas Message Video found at <https://youtu.be/i8owIsnpZkc> or any other 2015 Christmas Message Video produced by the group using the YouTube username “Wisconsin Assembly Republicans.” This request includes, but is not limited to emails, contracts, and records of any payments.

We also request the emails representatives used to distribute these videos.

¹ *America’s Changing Religious Landscape*, Pew Research Center (May 12, 2015), available at www.pewforum.org/2015/05/12/americas-changing-religious-landscape/.

² “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>

³ Barry Kosmin, National Religious Identification Survey 1989-1990.

⁴ *Id.*

⁵ *America’s Changing Religious Landscape*, Pew Research Center (May 12, 2015), available at www.pewforum.org/2015/05/12/americas-changing-religious-landscape/.

We look forward to your prompt written response to this letter.

Very truly



Dan Barker and Annie Laurie Gaylor
Co-Presidents
Freedom From Religion Foundation

ALG/DB:als

Cc:

Rep. Scott Allen
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Rep.Allen@legis.wi.gov

Rep. Scott Allen's full remarks:

Merry Christmas. To me and my fellow Christians, celebrating the birth of our savior, our Emmanuel, well, it is one of the most important celebrations of the year. **For those who may watch this who are not Christians, I invite you to consider the hope offered by the Prince of Peace.** For all who watch this, I hope that you are filled with joy and high spirits and that your life is full of festivity and rejoicing.

If, like me, you celebrate the birth of Jesus Christ, I ask you this holiday season to consider the words found in Hebrews chapter 10, verses 24 and 25: "let us consider how we may spur one another on toward love and good deeds. Let us not give up meeting together, as some are in the habit of doing, but let us encourage one another."

My friends, we obtain peace through love. This season, think of how you can love the people in your life, family, friends, neighbors, just a little bit more. Encourage them, fellowship with them. Our world needs more love and more peace. We do our part to make this world a more peaceful place by being more loving in our relationships. We gain strength through love. **Hebrews Chapter 10 concludes, "...we are not of those who shrink back and are destroyed, but of those who believe and are saved."** Merry Christmas.