

FREEDOM FROM RELIGION *foundation*

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

June 29, 2020

SENT BY EMAIL ONLY: Srhoden@bakerso.com

Sheriff Scotty Rhoden
Baker County Sheriff's Office
1 Sheriff's Office Drive
Macclenny, FL 32063

Re: Unconstitutional Religious Promotion on Social Media

Dear Sheriff Rhoden:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding unconstitutional religious promotion on the official Baker County Sheriff's Office's Facebook page. As you are aware, FFRF is a national nonprofit organization with more than 33,000 members across the country, including more than 1,500 members and a local chapter in Florida. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

As you know, we wrote to you on January 31, 2020, regarding the Baker County Sheriff's Office promoting and endorsing Elevate Life Church on its official Facebook page. We are still awaiting a response to that letter. Since our letter, the Baker County Sheriff's Office has continued to promote religion on its official Facebook page. On April 10, 2020, the Sheriff's Office posted an image, "Praying that the Lord's blessings are always upon you on this Good Friday and always." On April 12, 2020, the Sheriff's Office posted an image that included a Latin cross and, "He is Risen, Celebrate the Savior." On May 7, 2020, the Sheriff Office posted, "Today at 11:00 AM we gathered in observance for the National Day of Prayer to pray for God's healing hand to be placed on the people of our nation, state, local leaders and our community. God Bless the United States of America," along with a bible verse. Please see the enclosed screenshots.

The Supreme Court has long held that the Establishment Clause "mandates government neutrality between religion and religion, and between religion and nonreligion." *McCreary Cty., Ky. v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844, 860 (2005); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Ark.*, 393 U.S. 97, 104 (1968); *Everson v. Bd. of Educ. of Ewing*, 330 U.S. 1, 15-16 (1947). The Sheriff's Office's Facebook posts convey a message to non-Christians that they are not "favored members of the community." *Cty. of Allegheny v. Am. Civil Liberties Union Greater Pittsburgh Ch.*, 492 U.S. 573, 595 (1989).

As you are aware, citizens interact with and rely on law enforcement officers during some of the most urgent and vulnerable times of their lives. As Sheriff, you serve a diverse population that consists of not only Christians, but also minority religious and nonreligious citizens. We hope you will agree that the Sheriff's Office must be even-handed and avoid any appearance of bias toward some citizens, or hostility toward others. Religious endorsements made by your office send a message that excludes the 24 percent of American adults who identify as nonreligious, including 38 percent of millennials and younger Americans.¹ Religious endorsements coming from your office needlessly alienate the non-Christian and nonreligious citizens in Baker County, turning them into political outsiders in their own community.

Sticking to secular messages is inclusive of everyone and honors our Constitution. It should be a matter of pride that the United States was first among nations to adopt an entirely secular constitution, in which the only references to religion are exclusionary, such as barring religious tests for public office and separating religion from government.

Our Constitution's Establishment Clause, which protects all Americans' religious freedom by ensuring the continued separation of religion and government, dictates that the government cannot in any way endorse religion. The First Amendment prohibits even the *appearance* of religious endorsement by government officials. *See, e.g., Capitol Square Review and Advisory Bd. v. Pinette*, 515 U.S. 753, 787 (1995) (Souter, J., concurring) ("Effects matter to the Establishment Clause, and one, principal way that we assess them is by asking whether the practice in question creates the appearance of endorsement to the reasonable observer."); *Allegheny*, 492 U.S. at 593–94 ("The Establishment Clause, at the very least, prohibits government from appearing to take a position on questions of religious belief . . ."). Promoting one specific set of religious beliefs on the official Baker County Sheriff's Office Facebook page violates the Sheriff's Office's obligation under the Constitution as a government entity.

The Supreme Court recently described the power of social media sites as "the principal sources for knowing current events, checking ads for employment, speaking and listening in the modern public square, and otherwise exploring the vast realms of human thought and knowledge." *Packingham v. North Carolina*, 137 S. Ct. 1730, 1737 (2017) (internal citations omitted). Government entities must be particularly diligent not to entangle religious messages with official government pronouncements made in this "modern public square."

Finally, the Sheriff's Office's promotion of Christianity needlessly jeopardizes taxpayer dollars by exposing the county to legal liability. Not long ago the sheriff's office in Bradley County, Tennessee agreed to pay more than \$40,000 in damages

¹ Robert P. Jones & Daniel Cox, *America's Changing Religious Identity*, PUBLIC RELIGION RESEARCH INSTITUTE (Sept. 6, 2017), available at www.prrri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf.

and attorneys' fees after promoting religion on social media and ignoring objections to the practice. *American Atheists v. Watson*, No. 1:2016cv00118 (E.D. Tenn. filed May 6, 2016). There is no need to expose the Sheriff's Office and Baker County to similar liability by continuing to promote Christianity on a government account.

To avoid further Establishment Clause concerns, the Baker County Sheriff's Office must refrain from promoting religion on social media. Please inform us in writing of the steps taken to respect the rights of conscience of all Baker County residents, regardless of their personal religious or nonreligious beliefs. Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Chris Line". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Christopher Line
Staff Attorney
Freedom From Religion Foundation



Baker County Sheriff's Office

April 10 · 🌐



Praying that The Lord's blessings
are always upon you on this

Good Friday
and always.



Baker County Sheriff's Office

April 12 · 🌐



H E I S
R I S E N

C E L E B R A T E T H E S A V I O R





Baker County Sheriff's Office

May 7 · 🌐



Today at 11:00 AM we gathered in observance for the National Day of Prayer to pray for God's healing hand to be placed on the people of our nation, state, local leaders and our community. **God Bless the United States of America.**



PRAY
GOD'S GLORY
Across the Earth

"FOR THE EARTH WILL BE FILLED WITH THE KNOWLEDGE
OF THE GLORY OF THE LORD AS THE WATERS COVER THE SEA."

HABAKKUK 2:14 NIV

MAY 7, 2020