

FREEDOM FROM RELIGION *foundation*

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August 19 , 2021

**SENT VIA FAX AND U.S. MAIL:
(601)354-6290**

The Honorable Andy Gipson
Commissioner
Mississippi Dept. of Agriculture & Commerce
P. O. Box 1609
Jackson, MS 39215

Re: Delete inappropriate religious Facebook post

Dear Commissioner Gipson:

We are writing on behalf of the Freedom From Religion Foundation (FFRF) to object to your abuse of your government position to advance your personal religious beliefs. FFRF is a national nonprofit organization with more than 35,000 members across the country, including many members in Mississippi. FFRF protects the constitutional separation between state and church and educates about nontheism.

It is our understanding that on August 18, you posted a video to your official government Facebook page, www.facebook.com/CommissionerAndyGipson/ in which you are identified by your official title, “Commissioner,” and in which you are apparently sitting in the government office attached to that title. In the video, you read from the Old Testament while encouraging Mississippians to pray to a deity you believe in to ease the pandemic raging throughout the country, with Mississippi being one of the hardest-hit states.¹ The video includes graphics that appear to have been produced with government resources and also appears to have been professionally shot and produced, again suggesting government resources.

Using your office and the imprimatur of government, you told Mississippi residents that this is “a time we need to pause and pray, and ask God to intervene in this situation I’m reminded in the book of Nehemiah, as they were rebuilding the wall of Jerusalem . . . they also prayed. It says they prayed to their god. . . .

¹ www.facebook.com/CommissionerAndyGipson/posts/385373632937772.

Ultimately, this is an opportunity for you and for me to practice what we say we believe, In God We Trust. And we can trust God to get us through this storm. Would you join me in praying for Mississippi?”

As a state official, you represent a diverse population that consists of not only Christians, but also citizens with minority religious or nonreligious views. Religious endorsements made in your official capacity send a message that excludes the 30 percent of Americans who are non-Christians,² including the one in four citizens who are not religious, and the 44 percent of millennials and younger Americans who are non-Christian, most of them likewise without religion.³ Religious endorsements coming from your office needlessly alienate the nonreligious and non-Christian citizens you represent, turning them into political outsiders in their own community. Such social media posts send the message to your minority religious and nonreligious residents that their state government sees their views as less valued than that of their Christian counterparts. Secular messages include everyone and honor our secular and godless Constitution, the document you have sworn to uphold.

The Supreme Court has held that government officials violate the First Amendment if they even appear to endorse religion. *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.”); *Cty. of Allegheny v. Am. Civil Liberties Union Greater Pittsburgh Chapter*, 492 U.S. 573, 593–94 (1989) (“The Establishment Clause, at the very least, prohibits government from appearing to take a position on questions of religious belief . . .”). Promoting your personal religious beliefs on official social media pages violates the obligation under the Constitution as a public official.

The Supreme Court recently described the power of social media: “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. These websites can provide perhaps the most powerful mechanisms available to a private citizen to make his or her voice heard.

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

³ America’s Changing Religious Landscape, PEW RESEARCH CENTER (May 12, 2015), [available at www.pewforum.org/2015/05/12/americas-changing-religious-landscape/](http://www.pewforum.org/2015/05/12/americas-changing-religious-landscape/).

They allow a person with an Internet connection to ‘become a town crier with a voice that resonates farther than it could from any soapbox.’” *Packingham v. North Carolina*, 137 S. Ct. 1730, 1737 (2017) (internal citations omitted).

Social media is a powerful communication tool and government officials must be particularly diligent in not entangling their personal religious beliefs with their official social media accounts. Even the private social media accounts of people who assume government office can become accounts that speak for the government, unless these officers carefully distinguish their public and private roles. Courts are willing to treat accounts that politicians believe to be private as official government accounts when they are used to disseminate official government communications. The Ninth Circuit Court of Appeals once noted that Donald Trump’s Twitter feed was composed of “official statements by the President of the United States.” See *Hawaii v. Trump*, 859 F.3d 741, 773 n. 14 (9th Cir. June 12, 2017), *vacated on other grounds*, 874 F.3d 1112 (9th Cir. Nov. 2, 2017). We see no legal reason why your social media accounts would be treated differently.

We are aware that you are a Baptist minister in addition to being a government official. The U.S. Constitution still applies to you. You must refrain from promoting your personal religious beliefs while speaking on behalf of the government, and while using government power, property, and resources, because you represent *all* Mississippians, not just Christians.

Government officials can worship, pray, or quote any religious text they wish when acting in their personal capacities. But they are not permitted to provide prestige to their personal religion by lending a government office and government title to religious ideology. Their offices and titles belong to “We the people,” not the offices’ temporary occupants. As a state official, you are charged with great responsibility and have been given significant trust by citizens in your state, including those citizens who do not share your religious viewpoint. We ask that in the future you disassociate the Department of Agriculture and Commerce from your personal religious beliefs and refrain from posting religious endorsements on your official social media pages.

If the law and your oath to uphold the Constitution are not sufficient to convince you to stop, you might consider rereading Matthew 6:5–6, in which Jesus condemns public prayer as hypocrisy in his Sermon on the Mount.

Finally, while we appreciate that you urged Mississippians to take action as well as to pray, the reality is that your message will unfortunately affirm the widespread belief that prayer is an adequate substitute for getting vaccinated, wearing masks, and taking other science-based steps to mitigate and defeat the pandemic. This erroneous belief could be one of the reasons why Mississippi has one of the worst daily infection rates.⁴ Your call to prayer instead of call to vaccinate is helping to make a raging crisis in Mississippi worse, not better.

This video should be deleted immediately.

Very truly,



Annie Laurie Gaylor & Dan Barker
Co-Presidents
ALG/DB:rdj

Enclosure

⁴ See www.beckershospitalreview.com/public-health/states-ranked-by-covid-19-test-positivity-rates-july-14.html.



Commissioner Andy Gipson

23 hrs · 🌐

Now is the time for prayer! Mississippi's official seal bears the words "In God We Trust." This is the moment for us to put into practice what we say we believe, trusting in God to get us through these difficult days. As a fellow Mississippian, I'm asking you to join me in praying for one another and asking God to bring healing here in Mississippi and across America. God can make a way where there seems to be no way.

