

# FREEDOM FROM RELIGION *foundation*

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July 11, 2023

**SENT VIA EMAIL AND U.S. MAIL:**

**brian.cornell@target.com**

Brian C. Cornell  
Chairman and CEO  
Target Corporation  
50 S. 10th Street  
Minneapolis, MN 55402

Re: Recent Attorneys General letter regarding the Target Pride Collection

Dear Mr. Cornell:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a recent letter sent to you by Indiana Attorney General Todd Rokita and six other Attorneys General throughout the country. FFRF is a national nonprofit organization with more than 40,000 members, twelve-percent of whom are part of the LGBTQIA+ community. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

In a letter dated July 5, 2023, AG Rokita made the claim that Target's 2023 LGBTQIA+ Pride collection may have violated laws protecting minors from the "sale or distribution...of obscene matter" in Indiana and other states.<sup>1</sup> Throughout the letter, Rokita states that any and all LGBTQIA+ related materials sold likely qualified as "obscene," that Target sold "products with anti-Christian designs," and that by donating to the non-profit organization GLSEN Target was likely violating parental rights and child safety laws.

We write to encourage you to disregard the blatant abuse of political power and religiously-motivated fear mongering on the part of the letter's signatories, and to stand on the right side of history by continuing to support LGBTQIA+ communities.

As CEO, you are aware that Rokita's characterization of the Pride collection was rife with misinformation, such as implying that a shirt depicting a drag queen was aimed towards children despite only being sold in adult sizes.<sup>2</sup> The claim that Target was selling "tuck friendly"

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[https://content.govdelivery.com/attachments/INAG/2023/07/06/file\\_attachments/2546257/Target%20Letter%20Final.pdf](https://content.govdelivery.com/attachments/INAG/2023/07/06/file_attachments/2546257/Target%20Letter%20Final.pdf)

<sup>2</sup> <https://www.target.com/p/pride-adult-drag-queen-katya-short-sleeve-t-shirt-pink/-/A-87527750>

swimwear for children has been repeatedly debunked, with proof frequently given that those products were only ever created in adult sizes and sold either in the general Pride display or in the adult swimwear section.<sup>3</sup> Similarly, Rokita’s claim that Target sold “anti-Christian” merchandise featuring Satanic symbols is a blatant falsehood. While Target would certainly be well within its rights as a private business to sell Satanist merchandise, just as it sells Christian<sup>4</sup> and Jewish<sup>5</sup> merchandise, the Reuters article cited by Rokita clearly states that there has never been any proof that Target ever sold the type of merchandise described in the letter.<sup>6</sup>

The law regarding whether LGBTQIA+ content is appropriate for minors is rapidly developing; however, there is a growing body of decisions that indicate that the recent government attempts at censoring LGBTQIA+ art and existence likely violate the United States Constitution. In Tennessee, a federal judge ruled that Tennessee’s law requiring that drag performances be restricted to age-limited venues is “an unconstitutional restriction on the freedom of speech.” *Friends of Georges, Inc., v. Mulroy*, No. 2:23-cv-02163-TLP-tmp, 2 (W.D. Tenn. 2023).<sup>7</sup> Contrary to Rokita’s characterization of anti-obscenity laws, this decision indicates that any government restriction on drag performances likely must be narrowly tailored, following the well-established line of cases regarding obscenity and sexually explicit content. *Id.* at 39.

The bar for legal obscenity is exceptionally high, requiring as a part of a three-pronged test that the speech “not have serious literary, artistic, political, or scientific value.” *Miller v. California*, 413 U.S. 15, 21 (1973). While LGBTQIA+ art is not inherently sexually explicit, the court in *Friends of Georges* also correctly notes that “no majority of the Supreme Court has held that sexually explicit—but not obscene—speech receives less protection than political, artistic, or scientific speech.” *Friends of Georges* at 39 (citing *Ashcroft v. A.C.L.U.*, 535 U.S. 234, 245 (2002) (“It is also well established that speech may not be prohibited because it concerns subjects affecting our sensibilities.”); *Reno v. A.C.L.U.*, 521 U.S. 844, 874 (1997) (reaffirming that the First Amendment protects sexual expression which is indecent but not obscene). It is far from a stretch to say that this logic extends to the sale of LGBTQIA+ merchandise in stores like Target.

AG Rokita and his co-signers reveal their true intentions through their statements that the materials being sold at Target are “anti-Christian.” While Satanist materials were never sold, and LGBTQIA+ merchandise is not inherently “anti-Christian,” Target has every right to sell merchandise that it believes has a viable consumer base. There is no law that states that privately

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<sup>3</sup> <https://apnews.com/article/fact-check-target-swimsuits-transgender-pride-collection-892500330955>

<sup>4</sup> A search of Target’s website for the word “Christian” returns 24,387 results  
<https://www.target.com/s?searchTerm=christian&sortBy=relevance> (last accessed July 11, 2023).

<sup>5</sup> A search of Target’s website for the word “Jewish” returns 1,169 results  
<https://www.target.com/s?searchTerm=jewish&moveTo=product-list-grid> (last accessed July 11, 2023).

<sup>6</sup>

<https://www.reuters.com/business/retail-consumer/target-remove-some-lbgtq-merchandise-after-facing-customer-backlash-2023-05-23/>

<sup>7</sup> See also, *Southern Utah Drag Stars, LLC. v. City Of St. George*, No. 4:23-cv-00044-DN-PK (Utah June 16, 2023) (ruling that the city’s denial of a permit for a family friendly drag show was unconstitutional); *Little v. Llano Cnty.*, No. 1:22-CV-424-RP (W.D. Tex. March 30, 2023) (ruling that a blanket ban of LGBTQIA+ books from a public library was unconstitutional).

owned corporations must show special reverence for Christianity, yet by making these statements in their official capacities as Attorneys General, the signers of this letter inappropriately imply that those who might take issue with Christianity in their states will face legal consequences. This outrageous implication is a clear attempt on a part of these elected officials to use the power and prestige of their offices to coerce adherence to their own personal religious views into law, a direct violation of the Establishment Clause of the First Amendment.

As CEO of one of the largest retail chains in the United States, you are in a unique position to utilize your immense power and privilege to stand up for the rights of all Americans, and make clear that Target will not be bullied into promoting an extremist Christian nationalist agenda. Rhetoric like that found in the Attorneys General's letter painting LGBTQIA+ art and existence as obscene and anti-Christian is fueling an astronomical increase in terrorism, violence, and harassment against LGBTQIA+ people and communities in the United States.<sup>8</sup> Target now has the opportunity to play a major role in stemming the tide of hatred against not only the LGBTQIA+ community, but also every marginalized community in the United States, by refusing to be coerced by misinformation and fear-mongering.

Sincerely,

A handwritten signature in black ink, appearing to read "Kat D. Grant". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kat D. Grant

*Equal Justice Works Fellow (sponsored by the Wm. Collins Kohler Foundation)  
Freedom From Religion Foundation*

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<https://abcnews.go.com/US/threats-lgbtqia-community-intensifying-department-homeland-security/story?id=993381>  
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