



April 26, 2010

To the Office of the Mayor

RE: Unconstitutionality of National Day of Prayer

Dear Mayor:

In light of the recent federal court ruling declaring the National Day of Prayer unconstitutional, we are requesting that you refrain, as mayor, from issuing a National Day of Prayer proclamation and from participating in your official capacity in National Day of Prayer events.

We represent the Freedom From Religion Foundation ("FFRF"), a national organization with more than 14,500 freethinkers across the country. The purpose of our educational charity is to defend the Establishment Clause of the First Amendment, which Thomas Jefferson famously noted, builds "a wall of separation between church and state." The Foundation brought the challenge against the National Day of Prayer statute after receiving three decades of complaints from citizens who are offended, excluded and made to feel like political outsiders when their government oversteps its power to influence decisions over whether and when to pray.

Under our secular Constitution, elected officials have neither the moral nor the constitutional authority to exhort constituents to pray, much less to set aside an entire day for prayer every year, and tell them to gather with others "to turn to God in prayer and meditation at churches, in groups, and as individuals." Public Law 100-307.

Ironically, America was founded in part by refugees seeking freedom from precisely this kind of religious tyranny by government. They wanted freedom from a government dictating to them which church to support, what religious rituals to engage in, or what to believe or disbelieve. The U.S. founders who adopted our secular Constitution knew there can be no religious liberty without the freedom to dissent. Whether to pray, whether to believe in a god who answers prayer, is an intensely precious and personal decision protected under our First Amendment as a paramount matter of conscience.

Effect of Freedom From Religion Foundation v. Obama

On April 15, 2010, United States District Judge Barbara B. Crabb struck down the federal statute designating the first Thursday in May as the National Day of Prayer and enjoined the President and his press secretary from issuing an annual prayer proclamation. National Day of Prayer proclamations and observances unequivocally "communicate the message that the government endorses prayer and encourages its citizens to engage in it." *Freedom From Religion Foundation v. Obama*, No. 08-588, 2010 WL 1499451, at *17 (W.D. Wis. 2010).

"[R]ecognizing the importance of prayer to many people does not mean that the government may enact a statute in support of it, any more than the government

It would be a misuse of office, however, for the Mayor or City staff to promote, organize or cosponsor such activities as have commonly been spawned by the unconstitutional National Day of Prayer, such as prayer breakfasts, or to lend the Mayor's name to a "Mayor's Prayer Breakfast." A Mayor may not use the City web site to link to such events (often exclusively Christian in nature). Local ministerial associations should be asked to use their own names on such invitations, and not imply City or Mayoral approval or sponsorship.

Some religious-right groups and legal associations are deliberately misrepresenting the district court's National Day of Prayer ruling as somehow barring prayer, or privately-called days of prayer. This is nonsense. The court is making the necessary distinction between private speech (which may take any position on religion) and governmental speech (which may not be religious or take a religious position) — a distinction which groups antagonistic to the Establishment Clause refuse to acknowledge. As Mayor you have taken an oath of office to uphold the secular U.S. Constitution, and must scrupulously avoid using your public office to promote or advance your personal religious beliefs.

National Day of Prayer Tainted by Sectarianism, Christian Purpose

The National Day of Prayer originated with Rev. Billy Graham during his religious crusade in Washington, D.C. in 1952. He expressed an openly Christian purpose, seeking such an annual proclamation by the President because he wanted "the Lord Jesus Christ" to be recognized across the land. Congressional sponsors likewise openly expressed an agenda of promoting Christianity and belief in a god. Christian evangelical lobbies were behind the 1988 change in law designating the first Thursday in May as the annual National Day of Prayer. Subsequently the National Day of Prayer Task Force was created to "communicate with every individual the need for personal repentance and prayer, mobilizing the Christian community to intercede for America and its leadership." Chair Shirley Dobson, wife of the founder of Focus on the Family, issues annual National Day of Prayer proclamations and submits them to the President, choosing a theme with supporting scripture from the bible. The task force's stated goal is to pressure as many mayors and other elected officials as possible to also issue National Day of Prayer proclamations. Coordinators, volunteers and speakers at task force events must share the view that the bible is inerrant and "there is only one Savior and only one gospel." The district court noted "the National Day of Prayer has sparked a number of controversies around the country, demonstrating the sense of exclusion that religious endorsement by the government can create." *Id.* at *27.

Even Inclusive/Interfaith National Day of Prayer Events Raise Constitutional Concerns

An elected official cannot cure the Establishment Clause violation by issuing "all inclusive" prayer proclamations, or by holding "interfaith" prayer events:

"One might argue that the National Day of Prayer does not violate the establishment clause because it does not endorse any one religion. Unfortunately, that does not cure the problem. Although adherents of many religions 'turn to God in prayer,' not all of them do. Further, the statute seems to contemplate a specifically Christian form of prayer with its reference to 'churches' but no other places of worship and the

to divine intervention would hardly inspire public confidence.)

As the district court pointed out:

“Even some who believe in the form of prayer contemplated by the statute may object to encouragement to pray in such a public manner. E.g., Matthew 6:5 (‘You, however, when you pray, go into your private room and, after shutting your door, pray to your Father who is in secret; then your Father who looks on in secret will repay you.’) .” *Id.* at *12.

You may have previously received correspondence from the Alliance Defense Fund, an organization of Christian-only attorneys which has represented the National Day of Prayer Task Force. We call your attention to the enclosed sheet refuting many of the Alliance’s faulty legal assertions.

We encourage your office to read the thoughtful ruling of the district court in *FFRF v. Obama*. By ensuring that government does not take “sides on a matter that must be left to the individual conscience,” the decision strikes a blow *for*, not *against*, religious liberty.

We appreciate the courtesy of your attention to this timely matter, and encourage you to stand up for the precious constitutional principle of the separation between church and state, which unites and protects all citizens, believers and non-believers alike.

Very truly yours,

A handwritten signature in black ink that reads "Dan Barker & Annie Laurie Gaylor". The signature is written in a cursive, flowing style.

Dan Barker and Annie Laurie Gaylor
Co-Presidents
FREEDOM FROM RELIGION FOUNDATION