

FREEDOM FROM RELIGION *foundation*

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March 25, 2024

SENT VIA EMAIL & U.S. MAIL: jmoss@miottawa.org

Joe Moss
Chairperson
Ottawa County Board of Commissioners
Ottawa County Administrative Offices
12220 Fillmore Street
West Olive, MI 49460

Re: Concerns Regarding Equal Treatment of Non-Christian Invocations

Dear Chairperson Moss and County Commissioners:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to raise concerns regarding the Board's prayer policy and practice, and to ensure that all Ottawa County residents are treated with the same respect and given the same rights as Christian prayergivers. FFRF is a national nonprofit organization with more than 40,000 members across the country, including more than 1,000 members in Michigan. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

It is our understanding that the Ottawa County Board of Commissioners chooses to open its board meetings with an invocation. We understand that the Board has a policy that allows followers of various religions to deliver the invocation, and does not discriminate based on the religious beliefs of the person giving the invocation. To that end, we understand that the Board will be allowing a member of the Satanic Temple to deliver an invocation on April 23, 2024.

On March 21, 2024, Commissioner Jacob Bonnema claimed that "Satanists" shouldn't be allowed to deliver an invocation because it violates the "Christian values" of the community. In a Facebook post, he urged the Board's leadership to discriminate against members of the Satanic Temple:

The foundation of our community on these Christian principles has contributed to its appeal and attractiveness to individuals seeking a place to live. God's hand has guided the development of our community, making it a beacon within Michigan.

However, it is essential to recognize that if we deviate from these foundational values and stray from God, our community may lose the very essence that has drawn people, including those with differing beliefs like Satanists, to want to reside here...

From my perspective, as a follower of Christ, my primary allegiance is to the Kingdom of Heaven. I firmly believe that Satan's defeat is already sealed, and his aim is to defame and undermine all that is righteous. When Jesus taught us to pray for the fulfillment of God's will on earth as it is in Heaven, I am convinced that this is not His will for us to accommodate the requests of a "Satanist" on earth, especially not within the context of our board meeting...

The Satanic Temple's actions are a waste of our valuable time with their frivolous antics. If they choose to argue that a refusal to grant them the opportunity to deliver the invocation infringes upon their freedom of speech or religious liberty, I am prepared to face any potential legal challenge. They are not practicing religion, they are a group of unserious individuals resorting to cheap theatrics, and I am confident that the courts will see through their facade and publicity stunts...

I urge our board leadership to recognize the situation for what it truly is - a mockery and a publicity stunt. I implore them to rescind the invitation and put an end to this senseless charade.

We write to remind the Board that singling out a religious denomination by denying them an opportunity to deliver an invocation, despite allowing similarly situated Christian leaders to offer invocations, amounts to a clear violation of the First Amendment. If a government entity like Ottawa County chooses to engage in prayer before its meetings, it may not constitutionally restrict opportunities to give invocations to the faith traditions of which the County approves.

While Commissioner Bonnema is "prepared to face any potential legal challenge," we hope that the Board will uphold the constitutional rights of all residents of Ottawa County by allowing invocations from any resident, regardless of their personal religious beliefs. If the Board cannot treat invocation speakers equally then the practice of having an invocation needs to be eliminated entirely.

As Commissioner Bonnema's discriminatory statement has demonstrated, prayer at government meetings is unnecessary, inappropriate, and divisive. The best solution is to discontinue invocations altogether. Board members are free to pray privately or to worship on their own time in their own way. They do not need to worship on taxpayers' time. Citizens, including Ottawa County's nonreligious citizens, are often compelled to come before local government bodies like the Board regarding important civic matters. Christian prayers exclude the nearly 30 percent of adult Americans who are religiously unaffiliated, as well as the additional six percent of Americans adhering to non-Christian faiths.¹ It is coercive and intimidating for these nonreligious citizens to come to a public meeting and be required either to make a public showing of their nonbelief or to show deference to a religious sentiment they do not believe in, but which their County commissioners clearly do.

¹ Gregory A. Smith, *About Three-in-Ten U.S. Adults Are Now Religiously Unaffiliated*, Pew Research Center (Dec. 14, 2021), www.pewforum.org/2021/12/14/about-three-in-ten-u-s-adults-are-now-religiously-unaffiliated/.

If the Board insists on continuing to host prayers at public meetings, it must not discriminate against any person delivering an invocation on the basis of religion. Secular and satanic invocations must be treated the same as Christian prayers. The Supreme Court addressed the issue of legislative prayer in *Town of Greece v. Galloway*, 134 S. Ct. 1811 (2014). The Court identified several important elements in the town's invocation practice that, taken together, ensured that the practice did not impermissibly advance one religion over others or promote religion over nonreligion. Over time, the town of Greece "compiled a list of willing 'board chaplains' who had accepted invitations and agreed to return in the future." *Id.* at 1816. Additionally, the town of Greece "at no point excluded or denied an opportunity to a would-be prayer giver." *Id.*

Although Greece created its initial list of invocation givers by having a "town employee . . . call the congregations listed in a local directory until she found a minister available for that month's meeting," the town demonstrated a willingness to go beyond its list and allow others to give invocations. *Id.* At one point the town invited a Jewish layperson to give an invocation; and when a Wiccan priestess requested to give an opening prayer, the town granted her the opportunity. *Id.* at 1817. The town "maintained that a minister or layperson of any persuasion, *including an atheist*, could give the invocation." *Id.* at 1816 (emphasis added). In fact, on July 15, 2014, an atheist citizen delivered the opening invocation at Greece's town board meeting.²

The fact that Greece "represented that it would welcome a prayer by any minister or layman who wished to give one" was a critical factor in the Court's conclusion that the practice in *Galloway* did not violate the Constitution. *Id.* at 1824. The Court clearly stated that the purpose of legislative invocations must be inclusive: "These ceremonial prayers strive for the idea that people of many faiths may be united in a community of tolerance and devotion." *Id.* at 1823. The Supreme Court's decision would have been different had the town used the prayer opportunity to discriminate against minority religions. The Court made clear that governmental bodies must "maintain[] a policy of nondiscrimination" with respect to invocation speakers and must not act with "aversion or bias . . . against minority faiths." *Id.* at 1824.

The Establishment Clause thus requires that a Satanist who delivers an invocation be treated the same as someone who delivers a Christian prayer. Furthermore, it is unconstitutional discrimination to treat similarly situated persons differently: "[t]he Equal Protection Clause of the Fourteenth Amendment . . . is essentially a direction that all persons similarly situated should be treated alike." *City of Cleburne, Tex. v. Cleburne Living Ctr.*, 473 U.S. 432, 439 (1985) (citing *Plyler v. Doe*, 457 U.S. 202, 216 (1982)). Treating a member of the Satanic Temple or a nonbeliever who delivers an invocation differently from a Christian citizen constitutes discrimination.

Furthermore, "[t]he government, consistent with the Constitution's guarantee of free exercise . . . cannot act in a manner that passes judgment upon or presupposes the illegitimacy of religious beliefs and practices. The Free Exercise Clause bars even 'subtle departures from neutrality' on matters of religion." *Masterpiece Cakeshop, Ltd. v. Colorado C.R. Comm'n*, 584

² See www.centerforinquiry.net/newsroom/atheist_to_deliver_invocation_at_greece_ny_town_meeting_july_15/.

U.S. 617, 638 (citing *Church of Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U.S. 520, 534). In *Masterpiece Cakeshop*, the Supreme Court found that “official expressions of hostility to religion” in comments made by government officials, especially when those comments are “not disavowed...at any point,” are “inconsistent with what the Free Exercise Clause requires.” *Id.* at 639.

We agree that government prayers to a deity that you do not believe in are alienating. That you do not wish to hear a prayer ending with the phrase “Hail Satan,” is understandable. Many Americans similarly don’t want to hear prayers that end “in Jesus’ name” at meetings of their government. It alienates them in the exact same way. The best policy, the most inclusive policy, is to stop prayers altogether and get straight to the business of working for your county.

We urge you to concentrate on civil matters and leave religion to the private conscience of individuals by ending the practice of hosting prayers at your meetings. But as long as the Board continues to invite citizens to deliver invocations to begin its meetings, it must treat all invocations the same. The Board cannot discriminate against the Satanic Temple by denying its member an opportunity to deliver an invocation because you disagree with his religious viewpoint. Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Line", with a long horizontal flourish extending to the right.

Christopher Line
Staff Attorney
Freedom From Religion Foundation

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