

# FREEDOM FROM RELIGION *foundation*

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**SENT VIA EMAIL & U.S. MAIL: [michele.buckner@doc.mo.gov](mailto:michele.buckner@doc.mo.gov)**

Michele Buckner  
Warden  
South Central Correctional Center  
255 West Highway 32  
Licking, MO 65542

Re: Multiple Violations & Open Records Request

Dear Warden Buckner:

I am writing on behalf of the Freedom From Religion Foundation regarding multiple First Amendment and state constitutional violations occurring at South Central Correctional Center in Licking, MO. FFRF is a national educational nonprofit with more than 40,000 members across the country, including hundreds of members in Missouri. FFRF protects the constitutional separation between state and church and educates about nontheism.

A current resident of SCCC informs us that a Christian revival group has been granted special access to preach to residents. That group blasts its music on the outside ball field, for all general population (“gen pop”) residents to hear. The same group proselytizes to gen pop residents during outdoor recreation periods. Our complainant notes that he is unable to go outside and enjoy recreation time without hearing preaching or worship music from this revival group. This group has had permission to perform on the ball field for two years. The same resident also informs us that—despite their requests—SCCC’s library features religious material, but not material for atheists, agnostics, or freethinkers. This resident alleges that they have made requests for atheist material, all of which have been denied.

Whether inside or outside, residents of SCCC who are nonreligious cannot escape government-sanctioned Christianity. Denying atheist literature, while also allowing Christian preaching, rises to the level of coercion prohibited by the federal First Amendment and Missouri’s Constitution. We ask that (1) atheist literature be included in the library’s catalog; and (2) all attending groups be instructed to stop proselytizing to all residents in common areas, during outdoor recreation hours.

## **Censoring a Category of Books Violates the Free Speech Clause**

SCCC residents do not shed their right to read when they enter. “When the prison gates slam behind an inmate, he does not lose his human quality; his mind does not become closed to ideas; his intellect does not cease to feed on a free and open interchange of opinions; his yearning for self-respect does not end; nor is his quest for self-realization concluded.” *Procunier v. Martinez*, 416 U.S. 396, 428 (1974) (Marshall, J., concurring). “A prison’s refusal to allow an inmate access to a book ‘presents a substantial First Amendment issue. Freedom of speech is not merely

freedom to speak; it is also freedom to read.” *Munson v. Gaetz*, 673 F.3d 630, 633 (7th Cir. 2012) (quoting *King v. Fed. Bureau of Prisons*, 415 F.3d 634, 638 (7th Cir. 2005)).

SCCC is familiar with banning books, as it was the institutional defendant in *Murchison v. Rogers*. 779 F.3d 882 (8th Cir. 2015). There, SCCC permissibly banned *one* specific edition of *Newsweek* because it promoted violence or disorder. *Id.* at 885. That censorship was *edition-specific* and “reasonably related to [a] legitimate penological interest[.]” *Id.* at 887 (quoting *Thornburg v. Safley*, 482 U.S. 78, 89 (1987)). Not so here; it seems that SCCC is censoring books based on their non-religious sentiment. This categorical approach does not serve a legitimate penological interest. Instead, SCCC engages in *viewpoint discrimination* which is almost never permitted by our First Amendment.

The Religious Land Use and Institutionalized Persons Act (RLUIPA) also prohibits the banning of books based on their religious or irreligious nature. Banning or prohibiting books for atheists—despite pleas to include them—chills prisoners’ religious worship and practice. *See United States ex rel. Prison Legal News v. Berkeley Cnty. Sheriff*, 2:10-cv-02594-MBS (D. S.C. Apr. 11, 2012). Those parties settled after eight months for roughly \$600,000.<sup>1</sup> SCCC should avoid that. *See also Murphy v. Mo. Dep’t of Corrections*, 372 F.3d 979, 988-89 (8th Cir. 2004). Indeed, SCCC must use the least restrictive means possible to justify its policy of disallowing atheist books. *Id.* at 989. It cannot.

While serving their time, prisoners may seek enlightenment from books. When the government decides what books they can read, it denies prisoners their choice of spiritual growth and installs orthodoxy. With a particularly intimate and personal subject like religion, that is more true. Both the Free Speech Clause and RLUIPA recognize that; denying prisoners an entire category of books violates both. To remedy these Free Speech and RLUIPA violations, SCCC should permit atheist books that residents request.

### **Permitting Preaching to the Entire General Population Violates the Establishment Clause**

Federal courts of appeal—as well as state courts of last resort—have consistently held that prisons cannot proselytize, coerce worship, or *allow third-parties* to proselytize to its residents. *See generally Inouye v. Kemna*, 504 F.3d 705, 714 n.9 (9th Cir. 2007); *Warner v. Orange Cnty. Dep’t. of Probation*, 115 F.3d 1068 (2nd Cir. 1997); *Jackson v. Nixon*, 747 F.3d 537 (8th Cir. 2014); *Kerr v. Ferrey*, 95 F.3d 472 (7th Cir. 1996); *Arnold v. Tenn. Bd. of Paroles*, 956 S.W.2d 478 (Tenn. 1997); *Griffin v. Coughlin*, 673 N.E.2d 98 (N.Y. 1996).

At SCCC, a Christian revival group has been given access to hold sermons and then broadcast those sermons to the entire ball field. Those non-religious residents who wish not to be preached to face a difficult decision: Either listen to prayer and preaching—against their conscience—or stay inside, getting no exercise or outdoor time. That is the exact ultimatum at the heart of the Establishment Clause.

Missouri’s Establishment Clause prohibits this level of preferential treatment for Christianity and Christian groups—both as a matter of proselytizing and book banning. *See Mo. Const. Art. I § 7*. Missouri’s constitutional provisions ““declaring that there shall be a separation of church and

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<sup>1</sup> <https://www.prisonlegalnews.org/media/litigation/202-1%20Berkeley%20Settlement%20Agreement.pdf>.

state are not only more explicit but *more restrictive*’ than the First Amendment.” *Gibson v. Brewer*, 952 S.W.2d 239, 246 (Mo. banc 1997) (quoting *Paster v. Tussey*, 512 S.W.2d 97, 101-02 (Mo. banc 1974) (emphasis added)). The Supreme Court of the United States’s decision in *Trinity Lutheran Church of Columbia, Mo., Inc. v. Comer*, 137 S.Ct. 2012 (2017), did not change that. See *Doe v. Marianist Province of U.S.*, 620 S.W.3d 73, 78 (Mo. banc 2021) (quoting *Brewer and Paster*). So, irrespective of the First Amendment, Missouri’s Constitution prohibits this type of preferential treatment and coercion.

To be clear, this letter does not demand that religious services cease altogether. Instead, we request that accommodations for Christian inmates do not have a spill-over effect in proselytizing others—discouraging them from utilizing common resources. We can appreciate the difficulty in maintaining order in state prisons. However, our Constitution’s command is clear: outside groups cannot be given special access to proselytize a prison’s residents at large. Accommodations for one is not permission to preach to another.

### **Open Records Request**

Pursuant to RSMo. § 610.010 (“Missouri Sunshine Law”), we request records of the following:

- (1) All prisoner requests for books, literature, audio, or video from January 1, 2022 to present day.
- (2) Any emails, texts, or other communications in which the words “preach”, “Christian”, or “Christian revival” were sent to or from an SCCC employee.

If you choose to deny this request, please respond with a written explanation of the denial, including any references to applicable statutory exemptions relied upon. If any of these records are available through electronic media (preferred), they may be e-mailed to at [records@ffrf.org](mailto:records@ffrf.org). If I can provide any clarification that will help expedite your attention to my request, please contact me at 608-256-8900 or [hjoshi@ffrf.org](mailto:hjoshi@ffrf.org). I appreciate your time and attention to this request.

To respect the rights of all its residents, SCCC should (1) allow for atheist literature in its libraries, and (2) disallow outside religious groups from preaching to general population residents as a whole. Please respond in writing with the steps SCCC will take to remedy these Free Speech and Establishment Clause violations. Thank you for your time and attention.

Sincerely,



Hirsh M. Joshi  
*Patrick O’Reiley Legal Fellow*  
*Freedom From Religion Foundation*

**CC: Office of Professional Standards, [professional.standards@doc.mo.gov](mailto:professional.standards@doc.mo.gov);  
OPS Director, Vincent Rost, [vincent.rost@doc.mo.gov](mailto:vincent.rost@doc.mo.gov).**