

Judge orders S.C. to stop making 'I Believe' license plates

BY TIM SMITH • STAFF WRITER • DECEMBER 12, 2008

COLUMBIA -- A federal judge on Thursday temporarily stopped the state from making and issuing "I Believe" religious license plates, granting a request from a group that had argued the plates showed an unconstitutional preference for Christianity.

U.S. District Court Judge Cameron McGowan Currie issued the preliminary injunction after finding that the statute creating the plate violated the constitutional establishment clause forbidding government from establishing a religion.

The license plate, approved by the Legislature, contains a stained glass emblem with a cross on it and the words "I Believe" on top. No plates have been distributed, though hundreds have been ordered.

"I am extremely disappointed in the court's ruling, and feel the 'I Believe' license tag is completely constitutional," state Attorney General Henry McMaster said. "I will strongly urge and recommend that the Department of Motor Vehicles and the Department of Corrections immediately appeal this decision to the 4th Circuit Court of Appeals."

Currie found that for the purposes of an injunction, the law creating the plate didn't have a secular purpose, didn't have a primarily secular effect and entangled religion and government. To avoid an injunction, she said, the statute would have had to have passed all three parts of that legal test.

"I find it unlikely the act satisfies even one of these," she said.

Washington-based Americans United for Separation of Church and State filed a lawsuit earlier this year against DMV and the prison system, which makes all license plates, on behalf of some religious leaders and the Hindu American Foundation who claimed their First Amendment rights were infringed by the plates.

Lawmakers voted unanimously for the plates, and some said they wouldn't vote for plates for minority faiths, Americans United argued.

Currie ordered that the state cease any production of the plates, stop taking any orders for them and provide for an alternative plate for those who have already paid for the plates until the lawsuit is decided.

Kevin Hall, a lawyer who argued the case for DMV, said officials would review the case to decide whether to appeal Currie's ruling. "This is the first step in what likely will be a long-term process," he said afterward.

Source: *Judge orders S.C. to stop making 'I Believe' license plates*. 28 December 2008
<<http://www.greenvilleonline.com/article/20081212/NEWS/312120001/1001/NEWS01>>.

Illinois city shouldn't have silenced man at council meeting

**By The Associated Press
Sunday, December 28, 2008**

CHICAGO — A federal judge says the city of Waukegan violated the First Amendment rights of a resident who wasn't allowed to speak at a 2002 City Council meeting.

Jose Zurita went to the meeting to protest a vehicle-towing ordinance. But Mayor Richard Hyde asked him to apologize before speaking because of a separate incident involving a city worker overseeing a protest Zurita helped plan.

U.S. District Judge Milton Shadur wrote in a 60-page decision released Dec. 22 that the city violated Zurita's rights.

The lawsuit contains many claims connected to the ordinance and names Hyde and Police Chief William Biang.

Waukegan attorney James Flesch said he planned to appeal the ruling. But he says he's happy with other aspects of the judge's decision.

New Jersey court rules 'Super Lawyer' ads are protected

December 17, 2008

TRENTON, N.J. - The New Jersey Supreme Court has reversed a ruling that barred attorneys from being advertised as "the best lawyers in America" or similar superlatives.

The high court ruling stems from a 2005 case, in which a New Jersey attorney objected to an advertising magazine titled "New Jersey Super Lawyers" on the grounds it gave the impression that those attorneys were more qualified than others.

A state Supreme Court committee ruled in 2006 that such magazines violated state laws barring ads that are comparative in nature.

But the ruling published Wednesday holds that the ads are a form of commercial speech protected by the First Amendment.

New Jersey court rules 'Super Lawyer' ads are protected. 28 December 2008
<<http://www.newsday.com/news/local/wire/newjersey/ny-bc-nj--lawyerads1217dec17,0,7039042.story>>.

Choice of attire at voting booth at stake in suit

By TASHA KATES

Published: December 11, 2008

With the help of local free speech advocates, two Virginia residents have filed a lawsuit against employees of the State Board of Elections over their policy on political attire worn at polling places.

The American Civil Liberties Union of Virginia Foundation Inc., the Thomas Jefferson Center for the Protection of Free Expression and The Rutherford Institute are representing plaintiffs Jill Borak of Fairfax County and Charles Epes of Richmond.

Borak and Epes both contacted the ACLU about their experiences at the polls on Nov. 4. Epes sported an "Obama/Biden" button to his polling place, the suit said, but a poll worker at the check-in table told him that he had to remove it because campaigning wasn't permitted in the polling place.

Despite asserting that he wasn't campaigning, the lawsuit claims that Epes was told that wearing the button in the polling place was against the law.

After a poll worker told Epes that he would be unable to vote while wearing the button, another solution arose.

"At that point, another poll worker suggested that he cover up the button, and he was given a paper hospital smock," the suit said. "He was then allowed to vote."

According to the suit, Borak wore an "Obama '08" sticker to her polling place on Election Day, but was told by a poll worker that she had to remove her sticker because it was illegal to wear it while voting.

The state's electioneering law states that people can't hand out campaign literature or solicit votes within 40 feet of the entrance of the polling place. The Board of Elections announced its clarified policy on political attire earlier this year as a result of a large increase in new voters.

Officials said anyone who displays an item that advocates for a political candidate will be asked to cover or remove the message while inside the polling place. If the voter did neither, poll workers could file an incident report that would be sent to the local commonwealth's attorney.

John W. Whitehead, founder of The Rutherford Institute, said that while he believes the state's law on electioneering is written properly, he doesn't agree with the State Board of Election's interpretation of that law.

"This is just passive free speech," Whitehead said. "This is just people proudly wearing something they believe in."

The lawsuit was filed Wednesday in U.S. District Court, Eastern District of Virginia. Epes and Borak are asking for the board's policy to be deemed a violation of the First Amendment and repealed and for court costs.

Choice of attire at voting booth at stake in suit. Daily Progress. 24 February 2009

<http://www.dailyprogress.com/cdp/news/local/article/choice_of_attire_at_voting_booth_at_stake_in_suit/32617/>

Indiana high court: State can sue over political 'robo-calls'

By The Associated Press
12.24.08

TERRE HAUTE, Ind. — The Indiana Supreme Court says the state can go forward with lawsuits against companies that use autodialing machines to make prerecorded telephone calls in political races.

The court ruled 5-0 yesterday to overturn a trial court's decision to dismiss a state lawsuit against American Family Voices. At issue was whether the state's 1988 law banning so-called "robo-calls" covers political calls as well as commercial and sales calls.

Attorney General Steve Carter said the court ruling would protect Indiana residents from unwanted and illegal telephone calls.

"We aren't giving any free passes to politicians who pummel Indiana with robo calls," Carter said.

Carter's office filed suit against the Washington, D.C., group in 2006 after it made calls criticizing Republican Mike Sodrel during his race against Democrat Baron Hill for southern Indiana's 9th congressional district seat.

American Family Voices claimed Indiana's telemarketing law was clearly intended to regulate only commercial speech which tries to solicit the purchase of goods or services.

The state Republican and Democratic parties, while not named in the lawsuit, filed a joint brief with the state Supreme Court, saying that automated calls used for political messages are protected free speech.

But the state Supreme Court said in *State of Indiana v. American Family Voices, Inc.* that "the law applies to all autodialer calls, not just consumer transaction calls with commercial messages."

The Associated Press left a message seeking comment with American Family Voices and the state Democratic Party. The Indiana Republican Party said it would have no immediate comment.

Campaigns and special-interest groups use robo-calls for purposes such as reminding voters to go to the polls, delivering endorsements or criticizing opponents. They are far cheaper than calls made by volunteers or paid personnel.

More than a dozen states have placed limits or bans on political robo-calls, according to Stateline.org, a project of the Pew Center on the States that tracks state legislation.

Indiana high court: State can sue over political 'robo-calls'. First Amendment Center. 24 Feb. 2009
<<http://www.firstamendmentcenter.org/news.aspx?id=21053>>.

Sikh sues judge over demand for turban removal

DALLAS — A justice of the peace has been sued for allegedly ordering a man from his courtroom for refusing to remove his turban while defending himself in a traffic-citation case.

The lawsuit filed Aug. 31 charges that Judge Albert B. Cercone violated Amardeep Singh's religious rights because the turban is a religious article for Sikh men.

The American Civil Liberties Union filed the lawsuit on Singh's behalf in state district court in Dallas. It asked that Cercone and other judges be prohibited from forcing people to remove clothing required by their religion.

Singh said he tried to enter Cercone's courtroom in June 2006 to contest a speeding ticket, but a guard barred him under a policy barring hats, and court personnel told him to direct his objections to the judge.

Singh said he tried to explain that his faith requires wearing a turban but that the judge ordered him to leave the courtroom or face arrest.

According to the lawsuit, Singh consulted his uncle, a high priest, before removing the turban and putting his uncut hair in a pony tail to return to the courtroom in a "personally compromising and humiliating position."

The judge did not respond to a request for comment left with his staff.

Navdeep Singh, a spokesman for the Sikh American Legal Defense and Education Fund, said the group tried to contact the judge and the Dallas district attorney's office before approaching the ACLU about filing a lawsuit. He said the judge refused to respond and that an assistant district attorney said no prosecutors could recall the incident.

Sikh organizations claim there are about 500,000 adherents in the United States, and they compare the turban to yarmulkes worn by many Orthodox Jews and hijabs worn by many Muslim women.

This week, the New York-based Sikh Coalition protested a new federal policy that calls for more thorough security screening of airline passengers wearing head coverings. The screenings could include a pat-down search of the head.

The Sikh Coalition was joined by more than 25 ethnic and religious groups in saying that the policy singles out people who wear religious head coverings.

Last year, a judge in Georgia apologized to a Sikh American man who was barred from her court for a no-hat policy similar to the one in Dallas.

Sikh sues judge over demand for turban removal. First Amendment Center. 24 Feb. 2009
<<http://www.firstamendmentcenter.org/news.aspx?id=19003>>.

New Jersey inmate challenges ban on prison preaching

NEWARK, N.J. — A civil liberties group wants a New Jersey prisoner serving time for felony murder and robbery to be allowed to preach at services inside the prison.

Howard Thompson Jr., an inmate at the New Jersey State Prison who is an ordained Pentecostal minister, had been conducting weekly worship services until prison officials issued a 2007 ban on inmate preaching.

The American Civil Liberties Union has filed a federal lawsuit on behalf of Thompson that seeks to lift the ban. The suit says the move restricts his religious freedom.

The 44-year-old Thompson is serving 30 years to life.

A Corrections Department spokesman referred questions to the state Attorney General's office, where officials said they hadn't yet seen the lawsuit and couldn't comment.

According to the lawsuit, the Corrections Department in 2007 instituted a ban on all preaching by inmates — even under the supervision of the prison chaplain — without explanation.

"The right to practice one's faith, or no faith at all, is fundamental and applies inside and outside the prison gates," said Daniel Mach, director of litigation for the ACLU's religious-freedom program. "No officials should be in the business of restricting religious exercise."

Thompson, who entered the facility in 1986, started preaching and running Sunday services more than a decade ago, the lawsuit said, after being asked to fill in for a prison chaplain who fell ill. He also taught Bible study classes and founded a prison choir.

The suit argues that prison chaplains encouraged Thompson's preaching, which was always done with supervision and without incident.

The ACLU said curtailing Thompson's sermons is a form of banning religious expression and violates the federally guaranteed religious freedoms of all inmates.

The ACLU filed a similar lawsuit and won their challenge to a preaching ban in Rhode Island prisons last year.

New Jersey inmate challenges ban on prison preaching . First Amendment Center. 24 Feb. 2009
<<http://www.firstamendmentcenter.org/news.aspx?id=20960>>.