

# Christians in COURT

It often takes legal help for religious liberties to prevail

BY JOHN W. KENNEDY

“People in authority often don’t understand the rights that Christians have, and consequently they try to restrict the free exercise of religious expression,”

— *Mat Staver*

Christian legal activist organizations didn’t exist in the 1960s. There wasn’t much need. Other than Madalyn Murray O’Hair, few seemed to care about removing “In God We Trust” from currency, forbidding pupils from reading Bibles in schools, or eliminating “under God” from the Pledge of Allegiance.

Christians, representing the nation’s dominant religion for nearly two centuries, enjoyed a preferential status, yet peacefully coexisted with those of other belief systems or no faith at all.

Those days are history. While Christians are guaranteed certain constitutional freedoms to worship, assemble and speak, such rights are being challenged as never before.

Atheists, Wiccans, Muslims and other groups have done more than achieve equal footing as guaranteed by the U.S. Constitution. As the culture has become increasingly secularized, many non-Christians

also want to stifle the influence the majority religion has on society.

Initially, Christians showed no resistance. Yet today Christians who are standing up for their rights — most often in the workplace or at school — customarily emerge victorious. Usually a letter of explanation or a phone call from an attorney is enough to resolve a dispute. But when organizations such as the Rutherford Institute, Liberty Counsel, the Christian Legal Society and the Alliance Defense Fund litigate, they are successful in the vast majority of cases.

## BASIC RIGHTS

“Religious expression gets the same high protection as speech of political, cultural, entertainment and education content,” says Carl H. Esbeck, University of Missouri-Columbia law professor since 1981.

“You certainly don’t have to check your faith at the reception



Christians have the right to pray on public property, including outside the U.S. Supreme Court building.

desk,” says Mat Staver, chairman of Liberty Counsel, which he founded in 1989 in Orlando, Fla.

Employees can engage in Bible study, prayer or even evangelism during lunch or breaks.

A worker must be allowed to wear a cross necklace if other employees are permitted to wear jewelry. Likewise, Christians may wear clothing imprinted with Bible verses if other workers are adorned with written messages. Staver says employees may even substitute “Have a blessed day in Jesus” as an e-mail closing if others type a message such as “Have a wonderful day.”

Federal law requires employers to make a “reasonable accommodation” for religious practices of workers, unless it causes “undue

hardship.” For example, workers wanting to have Sunday mornings off to attend church may inform their company and offer to work a different shift instead.

Although government can reasonably regulate the time, manner and location in which it occurs, speech itself cannot be banned in a public forum. On public sidewalks, in government parks and in many public facilities, people are entitled to engage in free speech, including religious speech.

At public schools, students may form Bible clubs the same way they start other organizations. Students may use religious themes in homework assignments if they are consistent with the assigned subject matter.

Esbeck, who is a former director of the Christian Legal Society’s

Center for Law & Freedom and is still on its board, notes that freedom of speech protects the rights of individuals and private-sector groups. “Government is supposed to be neutral on religion,” Esbeck says. “We don’t want the government to take sides because it could very well take the side of a religion that’s not ours.”

## DANGER SIGNALS

Lawyers representing religious liberties groups spend a lot of time clarifying points of law with misinformed public officials. “People in authority often don’t understand the rights that Christians have, and consequently they try to restrict the free exercise of religious expression,” Staver says. When officials fail to budge, a lawsuit likely results. “We educate, and, if necessary, litigate,” Staver says.

“We’re not picking most of these battles,” says Alan E. Sears, founding president of the Scottsdale, Ariz.-based Alliance Defense Fund in 1994. “The other side is deciding where to create the havoc.”

John W. Whitehead, founder of the Rutherford Institute, pinpoints the change in society at the 1973 Supreme Court *Roe v. Wade* decision. He notes that no Christian group filed amicus curiae, or friend of the court, briefs in the case. Suddenly the nation had legalized abortion on demand.

Whitehead, who started the Charlottesville, Va.-based Rutherford Institute a quarter-century ago, is troubled by recent lower court rulings that prohibit religious expression on government property.

He points to the Rutherford Institute’s suit against a Henderson, Nev., school district, where officials last year unplugged a high school

senior's microphone after she began talking about Christian beliefs during her valedictory address. The amplification stopped after Brittany McComb read a Bible verse and referred to God, even though school



School officials silenced Brittany McComb's microphone during her valedictory address.

policy stated student graduation speeches "may not be restricted because of religious content."

A desire to be multicultural and inclusive played a role at a Virginia Tech memorial service the day after April's worst shooting in U.S. history. One convocation speaker called on Allah while another mentioned Buddha. None of the four clergy representatives invoked the name of Jesus. These days, it's often the Christian viewpoint that is the most unpopular, at least as far as the vocal opponents are concerned.

"The prayer to the unknown god is OK, but courts are saying you can't talk about a particular god," Whitehead told *Today's Pentecostal Evangel*. "Sooner or later these standards will be applied to other speech, so there will be no free speech at all."

### MORAL BELIEFS THREATENED

Christians and non-Christians often are at loggerheads because

courts have crafted rights to protect behaviors that Scripture deems immoral, including pornography, abortion and homosexuality.

Clashes have escalated in the workplace as more companies expect staff to undergo tolerance training regarding homosexual behavior. But Christians have the right to opt out of such diversity indoctrination if they prove it interferes with religious convictions.

The Rutherford Institute represented Albert A. Buonanno of Denver, fired by AT&T Broadband for refusing to sign an employee document that demanded he "fully recognize, respect and value the differences among all of us," including "sexual orientation." In 2004, a judge ordered the company to pay Buonanno more than \$145,000 for violating his religious belief that homosexuality is wrong.

"There comes a time when Christians must stand on principle — even if they like their boss," Whitehead says. "There's a confusion on doctrine that Jesus and the apostles were meek and mild and didn't challenge anybody. Jesus spoke the truth to the powers. He was tough on the priests. He insulted Herod by refusing to answer him. He stood face to face with Pontius Pilate."

Sears says Christians ceded much legal ground to public and school officials in the 1960s and 1970s, not questioning authority that runs counter to biblical mandates.

"We've been conditioned to lay back and take it," Sears says. "The body of Christ was AWOL for almost a generation."

### NO-SPEECH ZONES?

In the early 1960s, the U.S. Supreme Court ruled that public schools cannot allow teacher-led prayer or devotional Bible reading because they represent an improper endorsement of religion. But students still have freedom to form campus Bible clubs in which

they can pray, read Scripture and sing hymns. "A student can wear a shirt with a message such as 'Jesus Is Risen' if another classmate wears a shirt proclaiming a secular view such as 'St. Louis Cardinals World Champions,'" Esbeck says.

Still, numerous administrators and teachers improperly suppress students' religious speech rights, even though the U.S. Department of Education has lengthy guidelines on its Web site.

In one of the most notorious cases of the 1990s, a St. Louis principal yanked fourth-grader Raymond Raines out of his cafeteria seat as the youngster prayed silently over his brown-bagged lunch. The child spent a week in detention.

"What are these Ph.D.-trained superintendents and principals thinking?" asks Esbeck, who has been affiliated with the Springfield, Va.-based CLS since 1975.

Ironically, perhaps the place where speech is restricted the most is the public college campus. Several state universities have banned all outside speakers, which means even street preachers are prohibited from sharing the gospel.

Last fall, Missouri State University in Springfield settled an ADF lawsuit brought by student Emily Brooker, who said she experienced ridicule and discrimination because she refused to send a letter to the state legislature endorsing homosexual adoption as part of a social work class project. A university review this spring said the program operated in a "toxic environment" in part because of bias against students of faith.

"Places that claim to be bastions of free thought are frequently enclaves for totalitarianism, especially when it comes to suppressing Christian viewpoints," Staver says.

"We live in a politically correct society, and we're afraid to offend anybody," says Whitehead, whose books include *The*

*Rights of Religious Persons in Public Education* and *Religious Apartheid: The Separation of Religion from American Public Life*. "But one word seems to offend a lot of people: Jesus."

Of course educational confrontations start long before college. "The major clash in religious freedom is being waged in public schools," Staver says. "Whoever wants to focus on ideology and change the culture knows the most captive audience is the youth."

Students have more rights than they may realize. Before or after school or in between classes, students have the right to engage in free speech and activities, including distributing religious literature or Bibles to classmates. They are able to wear religion-themed clothing or jewelry as long as

there's no uniform dress policy.

In March, a federal district court ruled that an elementary school in Liverpool, N.Y., had violated the rights of fourth-grader Michaela Bloodgood, saying the Christian-themed fliers she distributed during noninstructional time might make pupils believe the school endorsed her message. Liberty Counsel represented Michaela.

Christians may need to take risks to ensure that rights don't disappear. In January, sheriff's deputies in Key Largo, Fla., arrested Anthony Mitro and Ernest Simpson for trespassing as they distributed Gideons International Bibles — on a public sidewalk outside school grounds. Despite agreeing to leave when ordered, officers arrested the men anyway. They are being represented by ADF.

Meanwhile, leaders of religious liberties organizations — which typically have staff or volunteer attorneys providing free legal services around the country — told *Today's Pentecostal Evangel* the way to stop erosion of rights is to wage fights in the courtroom.

Although more Christians are challenging religious discrimination, religious liberties lawyers say many Americans are either unaware of their rights or simply too timid because of peer pressure.

"People who are questioning the way they've been treated, those who think they've been discriminated against because of their faith, should pick up that telephone and call," Sears says. "Don't sit back and take it." **tpe**

E-mail your comments to [tpe@ag.org](mailto:tpe@ag.org).

**I** **OPENING**

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- Memorized the Quran by age 13
- Prays five times a day
- Believes Jesus was a mere prophet
- No one has told him otherwise

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