



REPORT from the CAPITAL

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NEWSMAKERS

Gilberto Orellana, a prominent Baptist from El Salvador, was abruptly released Jan. 9 after he was sentenced to a year in a Moroccan jail for sharing his Christian faith. Six days earlier he was convicted of "proselytization" and sentenced. Appeals, prayers and possible contacts by foreign governments may have accounted for his release. He was escorted by police to the Moroccan border with Spain, where he crossed over and presented himself to authorities. He reportedly planned to remain in Spain for a while.

Lisa Herdahl, a mother who is suing a Mississippi school district over alleged church-state violations, said that despite public sentiment to the contrary she is not an atheist. Herdahl said she likes to see biblical images in her home and in church but not in the Pontotoc County public schools. Herdahl said her children have been taunted because they won't go to Bible classes and participate in daily prayer sponsored by the public school. She said she believes in God and the separation of church and state. "I don't think a school or public institution has a right to push its religious viewpoint on a kid."

Thich Huyen Quang, the leader of an independent Vietnamese Buddhist organization banned by the government, has been arrested, according to a French-based human rights group. The Vietnamese Committee on Human Rights said he was arrested on the fourth day of a hunger strike he began to protest recent arrests of monks and laymen affiliated with the Unified Buddhist Church of Vietnam. The Vietnamese government banned independent Buddhist groups in 1981 and created a single, state-supervised organization. Δ

Reject subsidized religion, BJC, others urge high court

State universities must give student religious groups equal access to campus facilities and forums, but what about subsidizing religious messages?

The difference between equal access and equal advancement through subsidies lies at the core of arguments advanced by the Baptist Joint Committee and other groups in asking the U.S. Supreme Court to uphold the University of Virginia's refusal to provide student activity funds for a student Christian publication.

Joining the BJC in the friend-of-the-court brief are the National Council of Churches of Christ; the American Jewish Congress; the Union of American Hebrew Congregations; Hadassah, the Women's Zionist Organization of America; People for the American Way; and the National Coalition for Public Education and Religious Liberty.

Justices will hear arguments in the case Wednesday, March 1.

Lower courts upheld the university's policy barring use of student activity funds for political and religious organizations and activities.

The policy was challenged by Robert Rosenberger and other students in 1991 after university officials rejected their \$5,862 request to pay the printing costs of *Wide Awake*, a student-run Christian publication. The school funded 15 other student publications at the time.

In siding with the university, lower courts rejected the notion that free speech rights are not fully realized unless they are subsidized by the state.

The brief filed by the BJC and others argues that the direct subsidy for religion sought by *Wide Awake* conflicts with both the views of the nation's founders and Supreme Court rulings.

The Supreme Court "repeatedly has affirmed the principle that public funds should not be used to advance or inhibit religion," the brief states. The First Amendment's religion clauses require government to be neutral toward religion — "neither advancing nor inhibiting it, but setting it free to flourish or founder on its own."

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BJC General Counsel J. Brent Walker states in the brief that *Wide Awake*'s equal access argument is "facially appealing," but off target.

"Wide Awake Productions has access to the same facilities and forum as other students," the brief states, arguing that Rosenberger and the other students are seeking equal advancement, not equal access.

"While the Constitution permits government to subsidize many types of speech and activity, it may not subsidize religion or forces hostile to religion," the brief states.

Though not always, the difference between access and advancement is obvious in this case, the brief states.

"When the government pays the bills, it is no longer granting access, it is actually advancing the religious message," the brief concludes.

If the justices side with *Wide Awake*, Walker said, it will mark the first time the high court has approved a direct subsidy for religious activity. Δ

"When the government pays the bills, it is no longer granting access, it is actually advancing the religious message."

Florida church loses homeless shelter appeal

A Florida congregation has lost its attempt to challenge a zoning ordinance that forced the closure of a shelter for the homeless.

Without comment, the U.S. Supreme Court let stand Jan. 9 a ruling of the 11th U.S. Circuit Court of Appeals that upheld zoning ordinances enacted by Collier County.

After it was forced to close a shelter that did not conform to the county requirements, First Assembly of God of Naples, Fla., filed suit contending that the zoning laws violate the free exercise of religion. Sheltering the homeless, the church argued, is an essential aspect of the Christian religion.

In siding with the county, the lower court said the zoning regulations were neutral and applied to all group homes, not just those operated by churches.

A federal appeals court said the county had not prohibited shelters but had defined where and how they may operate. The intent of the ordinance was not to inhibit religion but to address health and safety concerns, the appeals court said.

In rejecting the church's petition for rehearing, the appeals court noted that the Religious Freedom Restoration Act "may apply to this case," but declined to discuss it since it was not raised by either party in the lawsuit.

The 1993 religious freedom act requires government to show a compelling reason to restrict religious practice, even through neutral, generally

applicable laws.

Among options urged by the church in asking the high court to review the case, was a request to return the case to the trial court to determine whether the zoning laws violate RFRA. Δ

High court to review order allowing KKK cross display

The U.S. Supreme Court has agreed to review a lower court order permitting the Ku Klux Klan to erect a Latin cross in front of the Ohio Statehouse.

At issue is a ruling by the 6th U.S. Circuit Court of Appeals that private religious speech in a public forum does not violate the First Amendment's requirement of church-state separation.

Klan officials filed suit after the organization's November 1993 application to erect the cross was denied. Ohio officials previously had approved unattended displays on Statehouse grounds that featured a Christmas tree and a menorah.

Ohio officials want the high court to consider whether unattended religious displays convey the endorsement of government when they are located close to the seat of government.

The appeals court rejected that argument, finding that "truly private religious expression in a truly public forum cannot be seen as an endorsement by a reasonable observer."

The appeals court said that absent a compelling interest, "the government may not discriminate against private speech in a public forum on account of

the speaker's views. Speakers with a religious message are entitled no less access to public forums than that afforded speakers whose message is secular and otherwise nonreligious."

The court distinguished between private religious speech and a government-sponsored display.

While government speech endorsing religion is unconstitutional, "private religious speech is constitutionally protected, whether in a church house or a public park," said J. Brent Walker, general counsel at the Baptist Joint Committee.

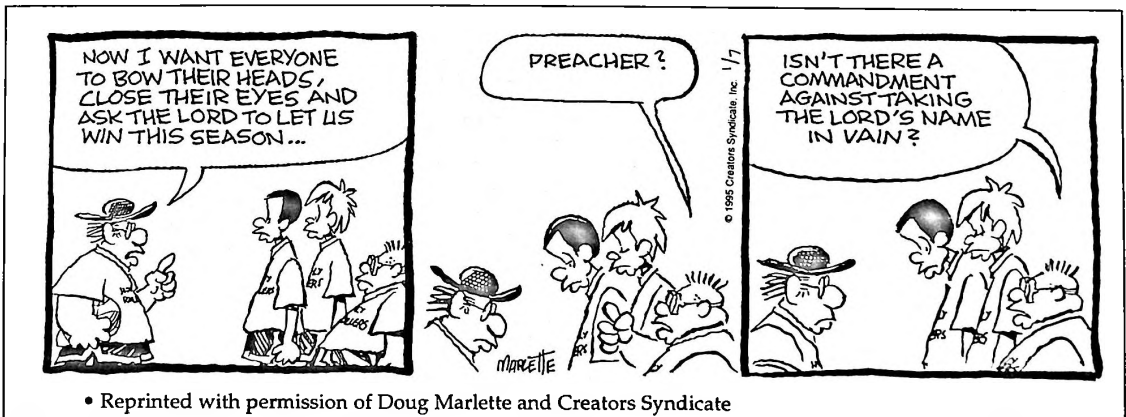
Walker said that when a "private party erects a non-permanent religious symbol in a public forum and puts up a sign identifying the private speaker, it's pretty hard to see how that's governmental endorsement of the message.

"Even the Klan — as loathsome as its message may be — is entitled to free speech." Δ

Russia's smaller churches make discrimination claim

Minority churches and smaller religious groups in Russia have accused the government of discriminating against them because they have been offered the return of fewer than two dozen places of worship confiscated during communist rule.

In November the Russian government published a list of 340 religious properties to be returned to church use. Of that number, 322 will be given to the Russian Orthodox Church. Δ



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Pew, Pulpit & the Law

Q: Are retired clergy eligible for a housing allowance?

A: Generally speaking, retired clergy are eligible for a housing allowance if they were eligible during their active ministry. The IRS has announced that retired ministers' housing allowance is "under extensive study," but an IRS official recently told me that no action is expected soon. In the meantime, eligible retirees can continue to claim a portion of retirement income properly designated in advance by the appropriate church agency, if (1) the retiree has severed his relationship with the local church and is relying on the fund for his pension, and (2) the pension funds compensate the retiree for past services to the local churches or to the denomination. (Rev. Rul. 75-22)

If the IRS finishes its study and issues a ruling that is contrary to this advice, we will let you know pronto. (JBW)

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REFLECTIONS

Yes ... and no, ambivalence



JAMES M. DUNN
Executive Director

Christian? Religious? Is this political thrust "right"? Conservative? Yes ... and no.

To the degree that the loosely-knit coalition of religious and semi-religious and pseudo-religious organizations with a heavy political agenda act on biblical goals, one must tag them the "religious" right. To stand for families, to fight violence, to demand honesty in business, to expect clean government, consistently to protect all human life: yes, that's religious. (Though tactics may not measure up to minimal morality.)

The drive for political engagement may stem from spiritual understanding, be driven by religious motivation and tested by theological tenets. One cannot say that's not religious, maybe Christian. So, yes.

And yet, it could be Christian just as the Crusades of the 11th-13th centuries were "Christian:" full of hate, killing people in order to "save" them, dehumanizing and bloody. "In the name of Jesus" those "holy wars" almost obliterated the purer Christian witness.

To this day there are those who are kept from Christianity by Christians. Hey! It's understandable. Even those who condemn violence one day stoke the rhetorical flames that heat up a climate for killing in their next public pronouncement. Christian politics? No!

Jonathan Miller, a Birmingham rabbi, shocked his bit of the Bible belt with a newspaper column pleading for a more Christian America. He asked "Would Jesus, who blessed the little children, be in favor of reforming our state's public

The psychiatrist inquired of her patient, "Do you have trouble making decisions?" He haltingly replied, "Well, yes ... and no."

That's the ambivalence many feel about the so-called "Christian" or "religious right." Is the movement

education so that God's children would receive a decent, safe and meaningful education? Would Jesus ... stand for cutting back on public services for the unfortunate? Would he banish poor children?" You get the point.

The phrase "Christian nation" may be troubling to many of us. But if the politically pious demonstrably convey compassion, mercy, healing, helping, learning, truth, honesty, peace, inclusiveness, reconciliation and goodwill, who would oppose that sort of Christian coalition?

Others question the rightness of the religious right and argue persuasively that it should be called the "radical" right. Much of the fever called conservatism does not sit well with conservatives.

Barry Goldwater is 85. He says if the Christian right "succeed(s) in establishing religion as a basic Republican Party tenet, that could do us in."

Jonathan Yardley quotes Abraham Lincoln as saying, "What is conservatism? Is it not adherence to the old and tried, against the new and untried?" Commonsensically, one hopes to conserve those values and safeguards set out in the Constitution, the Bill of Rights, the rule of law and "custom once solemnly established."

So? Right? Depends on what you mean by that. Correct? They say so. Conservative? Maybe so, maybe not. Let's say "radical."

As believers, our principal concern should be the purity of the gospel message. We should care most about our personal and corporate faithfulness.

Sen. Mark Hatfield put it well writing 15 years ago.

"As a Christian, there is no part of the New Right ideology that concerns me more than its self-serving misuse of religious faith. The New Right, in many cases, is doing nothing less than placing a heretical claim on Christian faith that distorts, confuses, and destroys the opportunity for a biblical understanding of Jesus Christ and of his gospel for millions of people."

Harry Truman said, "I hate those two-handed fellows, always saying 'On the one hand ... on the other hand.'" Me, too, but that's the way it is. Yes ... and no. Δ

GUEST VIEWS



MARK HATFIELD
U.S. Senator

When our Constitution was established, no other nation provided so carefully to prevent the combination of the power of religion with the power of the national government. According to Professor Malone of the University of Virginia, the pre-eminent scholar of Jefferson who has authored a six-volume study on the third president titled *Jefferson and His Time*, the intolerance of religious leaders when they obtain political power was a driving force behind the First Amendment. And history has proven Jefferson to be correct. Where government sponsors, initiates and dominates in matters of religion, there is stagnation, monolithic church institutions and little creativity.

Where government stays neutral and benevolently accommodates the religious expressions of all, religion flourishes and a vitality is evident in the healthy diversity of religious practices. In my view there is nothing wrong with the First Amendment as it is presently written. Let us abstain from enacting wholesale alterations in its language that could do serious damage to the religious liberties that we all hold so dear.

And I am not asking the schools to do something for my children that I am not willing to do at home.

I had one lady that spoke to me on my last visit to Oregon. She was very irate because she found out that I did not support the school prayer amendment. She said, "I believe my child should have the right to start every day with prayer." I said, "I do, too, and you ought to start him right at home before he leaves for school."

That is where you start the student day with prayer, in the home, and if the child wants to start his day in school with a classroom prayer, that is still his

right. The Supreme Court did not rule voluntary prayer out of the school. It only spoke to the question of prescribed prayer, and the Supreme Court was absolutely right. On the idea that somehow in order to pray we have to go through some form of formality, prayer is of the heart and not of the mouth to begin with. One can even pray standing in the center of the U.S. Senate, without kneeling, without folding your hands, without closing your eyes or breathing a word. You pray out of your heart. That is what every student can do every day in the schools in America. There is no way to enforce any other system. Δ

Above are excerpts of remarks delivered March 8, 1984, by Sen. Mark Hatfield, R-Ore., in opposition to a proposed constitutional amendment on school prayer pending on the Senate floor. At the time, Hatfield, a Baptist, was the primary Senate sponsor of the Equal Access Act, a measure approved by Congress later that year. That law protects the rights of student religious groups in public secondary schools.

REPORT from the CAPITAL

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