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REPORT from the Capital

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Randall Balmer to address Religious Liberty Council Luncheon at CBF/ABC USA overlapping meetings



Randall Balmer, is professor of American Religion at Barnard College, Columbia University; a visiting professor at Yale Divinity School and the author of *Thy Kingdom Come: An Evangelical's Lament* (Basic Books).

E-mail Phallan Davis at pdavis@bjconline.org or call her at 202-544-4226 if you'd like to register for the luncheon. To register through our secure Web site, visit www.BJConline.org.

12:15 to 1:45 p.m.

Friday, June 29, 2007

Grand Hyatt Washington, Independence Ballroom A

2007

Please send ____ tickets (\$40 each) for the 2007 Religious Liberty Council luncheon.

Please make checks payable to the **Baptist Joint Committee** with RLC Luncheon in the memo line.

Name _____
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200 Maryland Avenue, N.E.
Washington, D.C. 20002

For additional information, including details on sponsoring a table, contact Phallan Davis at (202) 544-4226 or pdavis@BJConline.org.



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REPORT

from the Capital

BJC joins cases in support of federal free exercise rights

The Baptist Joint Committee for Religious Liberty has filed two *amicus* briefs defending statutory protections for the free exercise of religion, both in the United States and abroad. The cases are *Rasul, et al. v. Rumsfeld, et al.* and the *Town of Foxfield, CO v. Archdiocese of Denver*.

In *Rasul*, the BJC contends that broad protection for the free exercise rights provided by the Religious Freedom Restoration Act (RFRA) also applies to military personnel and detainees at Guantanamo Bay.

The case centers on four British citizens who were detained by American forces in Afghanistan, transported to Guantanamo Bay and subsequently released without charge after two years. The men allege repeated and systematic acts of harassment based on their Muslim faith.

The plaintiffs brought a suit seeking damages against U.S. government officials, claiming violations of the Alien Tort Statute, the Fifth and Eighth amendments to the U.S. Constitution, the Geneva Convention and RFRA. The district court dismissed the plaintiffs' international law and constitutional claims, but ruled that RFRA applies, even to claims arising from those held at Guantanamo Bay. The defendants appealed that decision to the D.C. Circuit Court of Appeals.

BJC Executive Director J. Brent Walker said religious freedom is one of America's founding principles and must be protected. "The Religious Freedom Restoration Act reflects our country's commitment to religious freedom," Walker said.

Walker continued, "Its broad application honors that commitment. When anyone's God-given religious freedom is denied, everyone's is threatened."

In its brief, the BJC acknowledged grave concerns about terrorism and the

agency's intent not to encumber the government's efforts to bring culpable parties to justice, while arguing RFRA's high standard for the federal government in accommodating religious practice and respecting religious diversity be preserved.

In the second case, *Town of Foxfield, CO v. Archdiocese of Denver*, the BJC joined the Becket Fund for Religious Liberty in a brief that defends the application of the Religious Land Use and

Institutionalized Persons Act (RLUIPA), a statute that provides houses of worship with greater protection from burdensome zoning regulations.

The case, heard by the Colorado Supreme Court, stems from the Archdiocese of Denver's purchase of a temporary rectory in the town of Foxfield, Colo., for use while its permanent facilities were being built.

Citizens of the town and members of the local government passed an ordinance that prohibited parking more than five motor vehicles for more than 15 minutes on or within 1,000 feet of private residential property on more than two occasions during any 30-day period. The town sued the diocese to compel enforcement of the ordinance.

The diocese claims the ordinance violated RLUIPA because it placed a substantial burden on religious exercise through a land-use regulation. The law forbids state and local governments from placing such substantial burdens on the exercise of religion unless they can demonstrate that the imposition of such a burden is the least restrictive means of furthering a compelling government interest.

RLUIPA was passed by Congress in 2000 with the help of the BJC and a diverse coalition of religious and civil liberties groups.



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House panel rejects adding faith-based hiring to Head Start

WASHINGTON — For the first time under Democrats' new majority in Congress, a House panel refused March 14 to add language to a bill that would have allowed religious organizations receiving federal funds to discriminate in hiring on the basis of religion.

On a 24-13 vote, the House Labor and Education Committee rejected a Republican attempt to amend a bill reauthorizing the federal Head Start program. The amendment would have changed long-standing rules in the popular early-childhood education program that forbids faith-based hiring by explicitly allowing churches and other groups receiving funds to take religion into account when hiring teachers and other employees.

Advocates of the amendment argue that religious social service providers should not have to comply with nondiscrimination rules that apply to secular groups when they are receiving government funds. But many civil rights and church-state separationist groups contend that it is wrong to allow federal dollars to fund job discrimination.

Republican leaders repeatedly attempted to alter federal social service programs by adding language to a host of bills

in the past decade to change the nondiscriminatory hiring practices. While they often succeeded in the House, the Senate often stymied their efforts.

Such provisions were an integral part of President Bush's faith-based initiative — an attempt to loosen the rules for churches and other religious charities seeking government funds for providing services to the public. While the initiative was largely a failure in Congress, Bush has brought about many of the changes necessary to implement it through executive orders.

The House's new Democratic leaders are generally opposed to such explicit employment discrimination provisions, although some are supportive of the concept of making it easier for faith-based groups to receive tax dollars.

The National Head Start Association — representing thousands of Head Start programs nationwide — was also among the groups that opposed the amendment.

The original Head Start bill, without amendment, then passed the committee 42-1. It is expected to pass the full House, as well.

— ABP and staff reports



Ohio administration cuts contract with faith group, probes office

COLUMBUS, Ohio — Amid an investigation into the actions of the state's office of faith-based initiatives, Ohio officials have terminated a contract with a large organization closely tied to President Bush's efforts to fund government services through religious charities.

State officials sent a March 21 termination letter to the Virginia-based group We Care America, according to the *Dayton Daily News*. The letter reportedly cited the organization's refusal to answer questions from state investigators.

The nonprofit group describes itself on its Web site as supporting "faith-based and community organizations that serve people in need by supporting and leveraging public, corporate and private resources." It also says it's "compelled by it's [sic] God-given mission to help Christian organizations build their capacity to help Christian organizations build their capacity to serve those in need by influencing decision makers, sharing best practices, accessing new resources, and mobilizing volunteers for service."

Two years ago, We Care America received a \$2.1-million contract from the governor's office to administer \$22 million in federal grants, for which faith-based organizations were eligible.

Newly elected Ohio Gov. Ted Strickland recently ordered the state's inspector general to investigate the Ohio Governor's Office of Faith-Based and Community Initiatives. The agency is one of several that state governments have established in recent years. It is modeled after the White House office that Bush created.

However, according to experts in faith-based charity work, the Ohio office is unique because it was created

legislatively rather than by a governor's executive action. After Strickland replaced Gov. Bob Taft, under whose administration the office opened, the new governor replaced the office's staff.

At the time, he criticized the way the office had been run under Taft. "This was like an ATM machine for some of the most politically right-wing organizations," Strickland told the *Daily News*. He added: "It just really seems as if this is an example of where money that should've legitimately gone to serve the needs of the poor and vulnerable people in Ohio was in my judgment misused, and it was done in the name of God."

The *Dayton* newspaper has published a series of articles investigating the office and the grant given to We Care America.

The *Daily News* reports cited questionable expenditures under the contract, such as the purchase of two giant flat-screen television sets for the group's now-closed Ohio office, rental of two parking spaces in Columbus, and \$6,000 for a study that lauded the governor's faith-based office.

According to the Roundtable on Religion & Social Welfare Policy, a non-partisan group that tracks the faith-based effort, a former We Care America official called the *Dayton* newspaper reports inaccurate but declined to comment specifically on the organization. David Mills, We Care America's former vice president for grants and program management, also said the situation in Ohio was "very political" due to the change in administrations. A spokesman for Strickland refuted the characterization.

— ABP

REFLECTIONS

Thomas's book calls us to authentic Christianity

Do you need something to spice up your book club, Bible study group or Sunday school class? I've got just what you need.

Rev. Oliver "Buzz" Thomas, former general counsel of the Baptist Joint Committee (1985-1993), has written a new, provocatively titled book, *10 Things Your Minister Wants to Tell You (But Can't Because He Needs the Job)* (St. Martin's Press, 2007).

My good friend and former colleague tackles these difficult questions:

- How did it all begin?
- Why are we here?
- The Bible: what is it?
- Do miracles happen?
- How do I please God?
- What about women?
- What about homosexuality?
- What about other faiths?
- What happens after we die?
- How will it all end?

You may or may not agree with Buzz's take on all these questions, but it will surely stimulate a lot of thought and, probably, a lively discussion.

Even Buzz's conclusions are held lightly and humbly expressed. He recognizes that life is a mystery and that our religion reminds us that there is meaning and truth beyond our limited capacity to comprehend. He is critical of those who, with cocksure certainty, exhibit limitless hubris in purporting to understand fully the nature of God and the way we are supposed to relate to God.

Buzz observes "Christianity need not be sexist, homophobic, militaristic, or materialistic to be authentic. On the contrary, biblical Christianity, as it was practiced in the early churches, was none of these things." He concludes "It is my sincere prayer that two millennia after the death of its founder, Christianity can recapture its vision of creating a world where love of one's neighbor — be she Christian or Muslim, gay or straight, Republican or Democrat — reigns supreme." (p.108)

Readers of this column will be interested to know that, although none of Buzz's 10 topics deals exclusively with church and state, religious liberty pops up in a number of contexts throughout the book. (What else would you expect from one of the nation's premier church-state experts?)

First, in his chapter on creation, Buzz affirms that a belief in a creating God is fundamentally a religious conviction. As such, creationism and its cousin, intelligent design, should not be taught in the public school science classroom. However, the controversy surrounding the evolution/creationism debate can and should be taught in history, social studies and other appropriate places in the curriculum. A conviction that God created does not require a literal reading of Genesis 1 and 2; nor does it negate the teachings of science, including the principles of evolution.

In another chapter, Buzz argues for accepting women as equal partners in ministry, including as pastor and teacher. He, however, appropriately talks about the right of churches under the First Amendment to discriminate on the basis of gender when deciding whom to call as their spiritual leader. That said, he makes a persuasive case that what is legal and constitutional may not be ethical or right and hopes that "there's

something inside every American that is offended anytime discrimination takes place. Especially in the name of religion." (p.59)

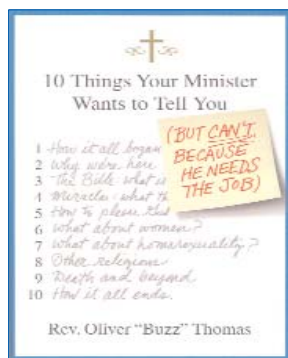
In his chapter on homosexuality, Buzz suggests that the separation of church and state may be best served by requiring the state to treat all matrimonial covenants as "civil unions" whether they are homosexual or heterosexual, and leave the determination and sanctification of relationships as "marriage" to churches and other religious organizations. This would provide a fair shake and full civil rights to all, while allowing those who view marriage in religious terms the right to perpetuate the characterization consistent with that tradition.

In his chapter on other faiths, Buzz encourages Christians, in their missionary enterprise and evangelistic efforts, to respect the other person's soul freedom and his or her right to say "no." Jesus did not manipulate or coerce; we should not either. He concludes with the familiar truth that, "failure to protect anyone's right to religious freedom diminishes everyone's religious freedom." (p.84)

Yes, Buzz has done us all a valuable service: calling us to a more authentic, biblical Christianity and illustrating how inextricably linked religious freedom is to the many theological conundrums that challenge and sometimes perplex us.



J. Brent Walker
Executive Director



Celebrate Freedom in Washington

The Baptist Joint Committee has a host of opportunities planned June 28-30 to celebrate religious liberty, when two of the organization's 14 supporting bodies, American Baptist Churches USA and the Cooperative Baptist Fellowship, conduct overlapping meetings in Washington, D.C.

Don't miss the celebration!

Thursday, June 28

2 p.m. Speaking Up 101

Members of Congress are public servants and want to hear about the issues most affecting constituents. The BJC is hosting a workshop on speaking out on religious liberty. The workshop will equip attendees with the tools to advocate for religious liberty in the halls of Congress and elsewhere.

Friday, June 29

Time to be determined Meet your Member of Congress

You are invited to take advantage of your trip to Washington by visiting the office of your member of Congress. The BJC will help those interested schedule meetings with lawmakers or their staff representatives. Those wishing to set up meetings should write the BJC at advocate@BJCOnline.org.

8 a.m. - 8:45 a.m. Baptist Unity Rally for Religious
Freedom on the U.S. Capitol grounds

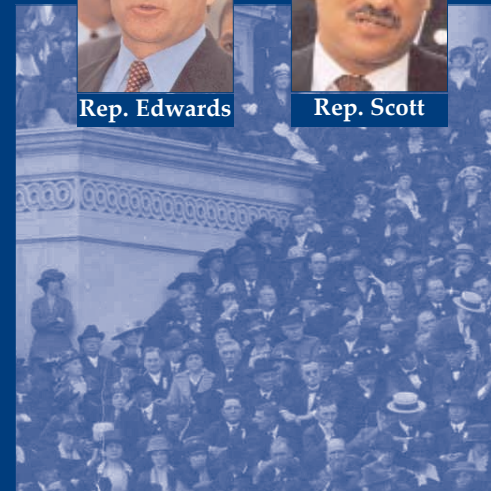
In May 1920, George W. Truett, a Baptist preacher from Dallas, Texas, climbed the east steps of the U.S. Capitol to address a throng of some 10,000 onlookers to rally support for religious liberty and church-state separation. Religious, political and educational leaders will celebrate our Baptist heritage by reading excerpts of Truett's speech. **Rep. Chet Edwards of Texas**, **Rep. Bobby Scott of Virginia**, **President William Underwood** (Mercer University), **Dr. Pam Durso** (Baptist historian), the **Rev. Jeffrey Haggrey** (Executive Director/Minister of the D.C. Baptist Convention), **Sharon Felton** (religious liberty advocate), **Rob Marus** (Washington Bureau Chief for Associated Baptist Press) and **Dr. Julie Pennington-Russell** (pastor) are among those scheduled to participate.



Rep. Edwards



Rep. Scott



Religious Liberty!

Washington, D.C., June 28-30

Friday, June 29 continued

12:15 p.m. - 1:45 p.m. Religious Liberty Council Luncheon

Author/Professor Randall Balmer will deliver the keynote address at the annual luncheon. Balmer is a professor of American Religion at Barnard College, Columbia University; a visiting professor at Yale Divinity School and the author of *Thy Kingdom Come: An Evangelical's Lament*. The event is \$40 per ticket and will be held in Independence Ballroom A of the Grand Hyatt Washington. To make reservations or to purchase a table of 10 for \$400, please see page 8 of this month's issue or e-mail Phallan Davis at pdavis@BJCOnline.org.



Balmer

7 p.m. Award Presentation

The National Ministries of American Baptist Churches will present a religious liberty award for leadership to the BJC during the combined worship service.

Saturday, June 30

5:45 p.m. - 7 p.m. Keynote Address

BJC General Counsel K. Hollyn Hollman will deliver the keynote address at the Roger Williams Fellowship dinner. Tickets for the dinner are \$30 and are available through the Biennial section of the American Baptist Churches USA Web site, www.abc-usa.org.

Other ABC & CBF events of note

Wednesday, June 27

1 p.m. - 5 p.m. The Pulpit and Politics: A Conference on Ministerial Ethics (CBF)

Thursday, June 28

7 p.m. General Session with address from Baptist World Alliance President David Coffey (CBF)

Saturday, June 30

12:30 p.m. - 2:30 p.m. Centennial Lunch with Wallace Charles Smith (ABC USA)

2:30 p.m. - 3:30 p.m. 100th Birthday Celebration (ABC USA)

Monday, July 2

7 p.m. - 9 p.m. Worship and closing with preacher Luran Bethell (ABC USA)





K. Hollyn Hollman
General Counsel

Court could come to a banner decision

Several friends of the BJC asked if we were involved in *Morse v. Frederick*, the Supreme Court case involving a public school student who was suspended for displaying a huge Jesus banner. It sounds like something we might be involved in, until you consider the message more carefully. The banner read: "Bong hits 4 Jesus." Despite the use of Jesus' name, the case as argued in March is not about religious expression. Of course, depending on how the Court rules the case *could* implicate religious freedom in the public schools.

It is not whether the student wins or loses that will affect future cases about religious expression in the public schools, but how the Court comes to that decision.

The facts are odd enough to ensure that the case will be a favorite among future law students. Joseph Frederick, a high school student in Juneau, Alaska, missed school that morning, but later joined his classmates at a event across the street from his high school and unfurled his 14-foot banner. The occasion was the Olympic Torch Relay, on its way to the Salt Lake City Winter Olympics. The school had dismissed students to attend the festivities in a show of school spirit and civic pride, which included performances by the school pep band.

Frederick was disciplined when he refused to take down the banner as ordered by the school principal. Frederick challenged his suspension through an administrative process and later sued the principal and school board in federal court, claiming his First Amendment rights had been violated. The district court ruled against him on the grounds that no constitutional violation occurred. On appeal to the 9th Circuit, the court vacated the lower court decision and held that the speech at issue could not be censored absent proof of disruption.

Frederick did not claim the banner contained a religious or political message. In media reports, he said he got the idea from a snowboard sticker and that it had no meaning. The banner seemed designed to say: "Put me on TV" or "I dare you to discipline me." The principal, however, interpreted the banner as a pro-drug statement at odds with the school's educational efforts. The ambiguity of the message is one of many factual matters that make this case a hard one.

In challenging his suspension, the student relies on *Tinker v. Des Moines Sch. Dist.*, the 1969 case that upheld the rights of students to protest United States policy in the Vietnam War by wear-

ing black arm bands. It was in that case that the Court memorably wrote that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate" and emphasized that schools "are educating the young for citizenship," [and that] "is reason for scrupulous protection of Constitutional freedoms of the individual."

The school and its principal, represented by Deputy Solicitor General Edwin Kneedler and former Solicitor General Kenneth Starr, argued for a broad rule that the school could restrict speech if acting in furtherance of the school's educational mission, especially as it relates to teaching about drug use. They claim *Tinker* supports their position because they say the sign, unlike the less conspicuous black arm bands, was disruptive.

It was the breadth of the rule proposed by the school board that motivated some religious interest groups to intervene on the student's behalf. They were concerned that such a rule could be used to restrict students' *religious* rights in the public schools because it focuses not on disruption, but on simple disagreement. In a brief filed by Liberty Legal Institute, for example, the harm was put this way: "If the Court adopts Petitioner's proposed subjective test, religious speech would be censored by public schools seeking to establish 'neutrality,' especially given religious speech is always contrary to the 'basic educational mission' because no school may adopt the advancement of religion as its mission."

While there was no mention at oral argument about the specific kinds of religious speech most likely to be endangered, members of the Court were clearly concerned about giving schools too broad authority to suppress speech.

At the same time, some justices voiced concerns about adopting a rule that would allow students to push the boundaries and prevent the school from promoting its own message. Throughout it all, it seemed the justices were struggling to understand the facts about the banner's meaning, whether Frederick was under the school's authority, and whether the student's actions were disruptive. As is often the case, it is not whether the student wins or loses that will affect future cases about religious expression in the public schools, but how the Court comes to that decision.

BJC announces religious liberty essay contest for high schoolers

To engage high school students in church-state issues and to generate interest from a wide range of Baptists, the Baptist Joint Committee for Religious Liberty has launched its 2nd annual Religious Liberty Essay Contest.

Open to all Baptist high school students in the classes of 2007 and 2008, the contest offers a grand prize of \$1,000 and airfare and lodging for two to Washington, D.C. Second prize is \$500, and third prize is \$100. Entries are due May 21.

Winners will be announced in the summer of 2007 and will be featured in *Report from the*

Capital. The grand prize winner will also be recognized at the BJC board meeting in Washington, D.C., on Oct. 2.

Students entering the contest are asked to use their understanding of the importance of the separation of church and state and the prophetic role of the church to respond to the following quote by the Rev. Dr. Martin Luther King Jr.: "The church must be reminded that it is not the master or the servant of the state, but rather the conscience of the state. It must be the guide and critic of the state, and never its tool."

Essays are required to have a minimum of 700 words and no more than 1,000 words. Students should demonstrate a sound knowledge of the subject matter and support their assertions and provide bibliographical references. Essays that do not meet the minimum qualifications will not be judged.

Visit www.BJConline.org/contest for more information or to download a promotional flier and registration form. Registration forms and essays or any questions should be e-mailed to essays@BJConline.org.

Graduation ceremony held in church spurs lawsuit from Muslim student

W. NEWARK, N.J. — A high school graduation ceremony held last year in a Newark church has sparked a lawsuit over religious freedom.

A senior who was graduating from West Side High School says he could not attend the ceremony because his Muslim faith prohibited him from entering a building with religious icons, such as pictures of God or the cross, according to a lawsuit filed against the Newark Public Schools by the American Civil Liberties Union.

"Schools should not sponsor activities that exclude some students from participating on the basis of religious belief," said Edward Barocas, the group's legal director.

The suit, filed on behalf of Bilal Shareef, is asking the court to grant the 18-year-old damages because both the graduation ceremony and a religious baccalaureate service violated his right not to be discriminated against on the basis of his religion.



The lawsuit alleges West Side officials told students if they attended the separate religious baccalaureate ceremony at a Catholic church, they would receive two additional tickets for the graduation ceremony.

Perry Lattiboudere, the district's general counsel, said the school system denies the allegations and has always tried to balance the needs of a diverse group of kids.

Lattiboudere argued that no federal or state court has ruled a school's decision to hold a graduation ceremony in a church violates the rights of a student or parent.

— RNS

Compromise allows return of cross to William and Mary Chapel

The bronze cross in the chapel at the College of William and Mary, whose removal caused controversy last fall, has been returned to the campus chapel in Williamsburg, Va., under a compromise announced March 6.

The Committee on Religion in a Public University unanimously agreed to place the altar cross in a "prominent, readily visible place" in the Wren Building chapel. It will be displayed in a glass case accompanied by a plaque explaining the Anglican roots of the college.

The cross would be allowed on the altar during appropriate religious services, according to a statement by the Board of Visitors and William and Mary President Gene R. Nichol.

"We hope that this policy regarding the display of the Wren cross will put this immediate controversy to rest," Alan J. Meese and James Livingston, co-chairs of the committee, said in a joint statement.

When the cross was removed last fall, critics accused the school of rejecting William and Mary's heritage. One donor rescinded a \$12 million pledge because of the controversy, *The Associated Press* reported.

"We knew our short-term mission was to come up with a proposal that would allow this college to come together and move forward as a community. We are confident this recommendation accomplishes that goal," Meese and Livingston said.

Michael Powell, chairman of the Board of Visitors, said the controversy brought "further division among our broad university community" and called the division "unhealthy."

Nichol, in an interview with *The Washington Post*, said the decision "recognizes both the history and tradition of the chapel and works to make it more open and welcoming to people of other faiths."

— RNS

Supporters honor, memorialize others with donations to BJC

In Honor of Roberta Hargrave
Marsall E. Hargrave

In Memory of Father Robert Drinan
Chris Breeze