

The Freethought Society News

Logo and website banner
contest details inside.
Submissions sought.
See page 13.

July/August 2010 Newsletter, Volume 1, Number 4
Editor: Margaret Downey and Various Volunteers
Published by: The Freethought Society (a chapter of FFRF)
P.O. Box 242, Pocopson, PA 19366-0242
Phone: (610) 793-2737 * Fax: (610) 793-2569
Email: Newsletter@FtSociety.org * Webpage: www.FtSociety.org

CLS v. Martinez Supreme Court Ruling Hailed

by Margaret Downey

In the article “When it comes to religious groups, who’s really facing discrimination?” (published in the March/April 2010 issue of *The Freethought News*), writer **Elliott Welsh** highlighted a few legal details of the United States Supreme Court case *Christian Legal Society v. Martinez* (08-1372). Welsh connected the discrimination he and his son experienced by the Boy Scouts of America (BSA) to the question of whether or not a private club could obtain federal funding and college endorsement while practicing a prohibitive membership policy.

In a 5-4 ruling, the Supreme Court held that Hastings Law School (HLS) was within its rights to apply a non-discrimination policy to the Christian Legal Society (CLS), a national network of lawyers and law students devoted to upholding Christian ideals.

Every campus group at HLS, other than CLS, complied with non-discrimination rules that sought to prevent any type of bigotry from flourishing. However, CLS chose to ignore anti-discrimination regulations. The Supreme Court’s affirmation of the 9th Circuit Court’s decision allowing the California college of the law (HLS) to deny recognition to a Christian-only student group was correct and within the framework of Constitutional law.

At HLS, complying groups have various benefits, including an opportunity for a small monetary resource, the use of certain bulletin boards and the use of email distribution channels. When universities such as HLS receive public funding, affiliated organizations must welcome all applicants. CLS, however, required that interested persons sign a “Statement of Faith.” CLS’s position was that without the written promise to uphold a vision of Christianity and the role sexual conduct has within it, CLS’s viewpoint could not be maintained.

This case has been ongoing since 2004. HLS barred CLS from school funding, priority access to facilities and the use of HLS’s logo. After CLS’s exclusion of non-Christians and gays from voting and leadership positions became apparent, CLS was denied its exemption request from the school’s non-discrimination policy.

The United States Supreme Court decision affirms that university non-discrimination policies are to be upheld and

confirms that no monetary allowances or validation of any kind should be extended to private discriminatory groups.

In the majority opinion, **Justice Ruth Bader Ginsburg** rejected CLS’s claim that unsympathetic students could sabotage the Christian group and gain control.

CLS’s restrictive membership policy runs contrary to the Freethought Society’s (FS) open-to-the-public policy. FS welcomes religious members and would look forward to having open dialog with people of faith. Should people of faith attend a meeting or social event hosted by FS, they would be welcomed. Furthermore, no bias or prejudices shall be imposed on a candidate nominated to run as an officer and/or board member of FS. This policy is in keeping with the *Christian Legal Society v. Martinez* decision. For this reason, I urge like-minded FS members to fill volunteer roles, run for office and serve in board positions. While FS maintains an open-to-the-public policy, no persons (religious and non-religious alike) will be allowed to disrupt meetings and activities. Disruptive individuals will be asked to leave.

The ruling in *Christian Legal Society v. Martinez*, upholds a policy that prohibits school-subsidized student clubs from engaging in religious discrimination. Discrimination of any sort is wrong, and a public school should be able to take steps to prevent it from happening. A very important precedent has been set and FS plans to use the ruling in future projects. Please watch for Anti-Discrimination Support Network (a committee of FS) activities and volunteer opportunities. It will be interesting to see what effect the CLS decision will have on the entanglement of private discriminatory organizations with public schools and other state/federally funded entities. The ruling may give more negotiation power to the City of Philadelphia as they deal with a recent jury ruling that allows the BSA to continue using a city owned building rent free even though BSA blatantly violates city anti-discrimination statutes.

In the case of *Boy Scouts of America v. City of Philadelphia*, also known as *Cradle of Liberty Council v. City of Philadelphia*, (2:08-cv-02429RB) the jury’s job was to answer factual questions, but it is up to the judge to issue the actual “order.” Legal precedents in *Christian Legal Society v. Martinez* will surely have an impact in the case. ◆

FS Report on BSA Rental/Use Lawsuit

by Margaret Downey

Philadelphia, Pennsylvania: The week of June 14, 2010, began with jury selection in the Federal lawsuit of *Boy Scouts of America v. City of Philadelphia*. A small group representing the Freethought Society (FS) gathered in front of the Federal Courthouse on that first day of the trial.

The intent of the rally was to raise public awareness that the Boy Scouts of America's (BSA) restrictive membership policies affect many people beyond the gay community. The harm of discrimination by BSA is much more extensive than revealed in court papers.

Rally participants politely discussed the issue with passersby who stopped to learn more. During the day, FS rally members were interviewed by newspaper journalists, filmed, yelled at and hugged. Names of supporters were gathered and many passersby wanted to help FS stop BSA recruitment in public schools. Several people also agreed to write letters to former President **Jimmy Carter** regarding this issue.

The rally started at 9:00 AM and ended at 5:00 PM. Rally participants each have stories to tell about their experience. Please watch for a future article highlighting the event in the next issue of *The Freethought News*.



Pictured above (left to right) are **Glen Loev**, **Sue O'Connell**, **Margaret Downey** and **Daniel Brown**.

Pictured below are Downey (left), **Bob Kay** (center) and Loev (right). Not pictured are **C. J. Connor** and **Bill Paci**.



Oral arguments began on Tuesday, June 15, 2010. The building in question was built in 1929 (with money raised by BSA) and since that time it has been maintained by BSA's Cradle of Liberty Council (BSACLCL). BSACLCL claims that the building was renovated at the cost of over \$2 million dollars. The City of Philadelphia sought to carry out an eviction unless BSACLCL rejects the national membership policy of BSA, which bans homosexuals from membership.

In the *Boy Scouts of America v. Dale* case of 2000, the Supreme Court of the United States ruled 5-4 that the Boy Scouts of America (BSA) were constitutionally permitted to prohibit open homosexuals from being members or troop leaders. The city however, argued that while BSACLCL is free to exercise its First Amendment right to create its own policies, it is not free to receive special benefits from the City of Philadelphia.

The City of Philadelphia's anti-discrimination statutes are renowned and honored by ethical citizens of the Commonwealth.

BSA's requirement for members to be "morally straight" and "clean in thought, word, and deed," was intended to exclude homosexual conduct, according to a 1991 BSA statement.

City attorneys also wanted BSACLCL to pay \$200,000 a year in rent for the land at 22nd and Winter Streets. The argument was whether or not BSACLCL should leave or change their biased membership rules.

BSACLCL contended that the City of Philadelphia has adopted a "selective" application of its anti-discrimination statutes. BSA attorneys argued that other private groups such as a Roman Catholic parish and the Colonial Dames of America discriminate in their membership and enjoy subsidized leases. The Colonial Dames and the Maternity of the Blessed Virgin Mary (a large Roman Catholic parish) have not been threatened with the end of their "sweetheart deal" lease agreements.

I have written to the Freedom From Religion Foundation, Americans United for Separation of Church and State, The American Humanist Association and the Center For Inquiry to notify them of this possible separation of religion and government violation highlighted in court documents.

On Wednesday, June 23, 2010, the jury decided that the City of Philadelphia *cannot* evict BSACLCL. Arguments that nonprofits must abide by local anti-discrimination laws if using city owned property, fell on twenty-four deaf ears.

BSA lawyer **Jason Gosselin** said that he hopes the two sides can work out their differences in negotiations which began almost immediately.

FS is hopeful that the U. S. Supreme Court ruling in *Christian Legal Society v. Martinez* will enter into the negotiation talks. Should the City of Philadelphia seek an appeal in this matter, *Christian Legal Society v. Martinez* is sure to play a significant role. ◆

Sample Letters to Former President Jimmy Carter

In January 2010, the Freethought Society initiated an “old-fashioned” letter-writing campaign to former President Carter. Below are sample letters written by participants of that campaign. Please consider writing your own letter and sending it to:

James E. Carter, Jr. c/o Carter Center, 453 Freedom Parkway NE, Atlanta, GA 30307

Sally Flynn’s letter:

Dear Mr. Carter,

Long before the Supreme Court declared the Boy Scouts of America (BSA) a private club (in 2000), allowing them to continue excluding gays and atheists, I realized how radically they had changed from the days when they truly served all American boys...well, maybe not all since there was racial discrimination.

Now this supposedly all-American youth group has gone a step farther and are discriminating against the disabled. Your name on BSA’s Advisory Council belies your reputation for tolerance, kindness and good works, so this is a request that you tell them you can no longer be associated with them.

Perhaps your special influence will make them consider the hateful policies they are imparting to a future generation of male leaders.

Thank you for your lifetime service to our wonderful nation.

Sally Flynn

West Chester, Pennsylvania 19382

Glen Loev’s letter:

Dear President Carter,

It has come to my attention that you serve on the advisory committee for the Boy Scouts of America.

As you know, the Boy Scouts of America has had, for some time, an official policy that excludes from membership, volunteer work or employment of anyone who is gay and/or an atheist. They have now expanded their list of “undesirables” to include disabled people as well.

The discriminatory practices of the Boy Scouts of America have gone on far too long. I urge you to use your influence to try to change the patently unfair policies of the BSA.

If the leadership of the Boy Scouts of America will not change their policies on these matters, I strongly request that you publicly denounce their unjust exclusionary practices and remove yourself from their advisory committee.

I trust that you, sir, as a person of high moral values and as a champion of ethical behavior, will agree that it is the right thing to do.

Thank you for your consideration of my request.

Glen Loev

Haverford, Pennsylvania



Margaret Downey’s letter:

Dear Former President Carter,

I first contacted you regarding your Advisory Board position with the Boy Scouts of America (BSA) on January 9, 1996. I followed that correspondence with another letter dated, January 15, 1996 (please see enclosed). Fifteen years later, my message to you remains the same — please re-consider your affiliation with BSA.

In 2000, BSA declared itself a “private” organization and the United States Supreme Court recognized it as such in the Dale v. Boy Scouts of America case. Thus began the blatant application of BSA’s “right of association” stance. I write to update you and to seek your assistance in ending a highly unethical situation.

BSA discrimination has worsened, Mr. Carter. BSA camp manuals are being revised indicating that BSA is no longer (as a private organization) required to comply with Americans with Disabilities Act regulations. I am aware of several instances where wheelchair bound people have been rejected from participation.

While it is legal for a group to institute private membership rules, it is highly immoral for the world’s largest youth group to advocate intolerance and separation from certain members of the community. I’m sure you agree that prejudice against homosexuals and atheists is NOT an American value. Yet, BSA advocates a policy of segregation from those who they have prejudged as unworthy of association.

The question is whether or not BSA is listening to members of their Advisory Board, of which you are a member. The fact that the bigotry continues can only mean one of two things:

- 1. You are in agreement with the policy*
- 2. Your voice of objection is not being heard*

If, in fact, you oppose a policy that represents separation and intolerance, you should consider firmly and publicly announcing your resignation from an advisory board position with BSA.

Your voice of objection could significantly impact BSA’s membership policy. Please join us in our quest to treat every citizen with respect, dignity and participation. BSA’s membership policy is an antiquated viewpoint that must be changed. You can help, by refusing to have your good name associated with BSA’s limited membership policy.

Margaret Downey

Pocopson, Pennsylvania