

Want to know how we have handled your investment in our  
ministry this quarter? See below to find out!



# Foundation for Moral Law

Mr. John R. Venrick  
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November 05, 2020

Dear Mr. John R. Venrick,

I am pleased to present to you the Foundation for Moral Law's report for the third quarter of 2020. We hope that you will be pleased with the stewardship of your investment in this ministry, and we thank God for your partnership with us.

During the third quarter of 2020, we initiated another case challenging a state's COVID-19 orders that negatively impacted the rights of churches and the rights of individuals. We also initiated another case representing a person who received a life sentence for stealing a roofing nail gun, and, we filed a new *amicus* brief at the United States Supreme Court in a very important case involving religious liberty. Moreover, *Justices Thomas and Alito of the United States Supreme Court adopted our position from an amicus brief about the need to revisit Obergefell v. Hodges*, which legalized same-sex marriage. We were also blessed to hire several new employees. Finally, we will petition the new Court, with the addition of Justice Amy Coney Barrett, to protect our religious and civil liberties in the coming term.

## I. New Cases

### A. *Case v. Ivey*

Around the Country, governors in almost every state are still issuing orders dictating how people must respond to the COVID-19 outbreak. Most of the time, the governors have done this without any input from their legislatures. Most states have also issued requirements for people to wear masks. Lawsuits have arisen around the Country challenging the constitutionality of such orders, and **several courts have held that such orders are unconstitutional.**

On September 24, the Foundation for Moral Law filed such a lawsuit in Alabama, challenging the constitutionality of the orders of the Governor and State Health Officer. Our plaintiffs include two pastors whose churches were closed, three small business owners who have suffered significant economic loss, a school bus driver who fears that wearing a mask as she drives will create safety issues, and a woman who has a medical exemption from the mask requirement but is routinely turned away from businesses because she cannot wear a mask.

We recognize that COVID-19 is real, and we do not wish to cripple any *lawful* actions by the government to deal with the pandemic. However, we believe that there are at least two major problems with the way the government has been issuing orders. First, the doctrine of separation of powers is central to a constitutional republic. The legislature makes laws, and the governor enforces them. However, in our case, the Governor has not been merely *enforcing* the law but rather *making* the law, and **that violates the doctrine of separation of powers.** Second, the government may not trespass on constitutionally protected rights. The State of Alabama violated the First Amendment's guarantee of religious freedom when it made churches close. It violated the Contracts Clause when it shut down businesses. And finally, there are Supreme Court precedents addressing matters of personal liberty; forcing every person to wear masks appears to violate those precedents. **Thus, we took this case to protect the rule of law and constitutional liberties, including religious freedom.**

This case is still in the early stages of litigation. It is currently before the United States District Court for the Middle District of Alabama, and the Honorable Keith Watkins is presiding over this case. Your prayers would be appreciated. It is our honor to fight for the rule of law, religious liberty, and economic and personal freedom, **but we can do it only with your help! Will you please support our work with a tax-deductible donation of \$35, \$50, \$100, or even \$500 today?**



## B. *Conner v. Peters*

In our second new case, we filed a petition for a writ of *habeas corpus* on behalf of Willie Lee Conner. In 2012, Conner attempted to steal a roofing nailer from a Lowe's Home Improvement store in Foley, Alabama, by placing the nail gun in his pants and trying to walk out of the store. The loss-prevention managers met him in the parking lot and asked him to come back inside, and he complied. Once inside the store, Conner, in a very unfortunate choice of words, said, "I have a gun," and began reaching inside his pants. Believing that he was referring to a firearm, the loss-prevention managers subdued him. They searched him and did not find a firearm on him. Conner claimed he was referring to the nail gun, not a pistol.

Conner should have been tried for theft of property in the fourth degree, which is Alabama's shoplifting statute. He was guilty of shoplifting, which is punishable by up to a year in jail, and he should have been punished accordingly. However, because he said, "I have a gun," the State charged him with first-degree robbery. Alabama law requires that a person must be armed with a deadly weapon in order to be convicted of that crime, but the undisputed evidence shows he did not have a gun. Nevertheless, he was convicted of first-degree robbery. Because he had prior convictions for nonviolent theft, he was sentenced to **life imprisonment**.

Conner reached out to us asking for help, and we agreed to take his case. We believe in law and order, **but sentencing a man to life imprisonment for stealing a nail gun is overkill, not justice.** Thus, we are arguing that Conner's sentence is grossly disproportional to the offense and therefore violates the Eighth Amendment's prohibition of cruel and unusual punishment.

Conner has been a model inmate and has even managed to get transferred to a minimum security facility because of his good behavior. Conner has been rehabilitated and maintains a strong faith in God. He has been incarcerated for over 7 ½ years, whereas he should have been incarcerated for only a year at most. His case is currently pending before the United States District Court for the Southern District of Alabama.

## II. Updates in Old Cases

We are continuing to fight on behalf of Pastor Tony Spell and Life Tabernacle Church in Baton Rouge, Louisiana. As you know, Pastor Spell was one of the first to stand up to his state's COVID-19 orders, which restricted the rights

of churches to assemble. Pastor Spell was charged with six counts of violating the orders of Louisiana Governor John Bel Edwards, because he believed that the Bible commanded him to assemble his church in person. Law enforcement is now bringing up traffic violations that are over twenty years old to bring him down!!!

In the last quarter, we reported that the Fifth Circuit held that our particular appeal was moot for now but would allow us to appeal again later. This quarter, the defendants filed a motion to dismiss back in the trial court, which we have opposed. In the meantime, we are preparing to ask the Supreme Court to grant immediate injunctive relief to Pastor Spell and his church. **With Justice Amy Coney Barrett now on the bench, we will have a good chance of securing immediate injunctive relief.**

We also witnessed a result in *Davis v. Ermold*. As you may remember, when the Supreme Court issued its same-sex marriage decision in 2015, a Kentucky clerk named Kim Davis refused to sign marriage licenses for same-sex couples because of her religious convictions. One of the couples to whom she denied a marriage license sued her, and that lawsuit is still active. Davis asked the Supreme Court to take her case last year, arguing that she was entitled to qualified immunity. We filed the only *amicus* brief in that case supporting her, arguing that the real problem was that the Supreme Court created an unconstitutional right to same-sex marriage in *Obergefell*. Since Justice Kavanaugh had replaced Justice Kennedy, we believed that the Court may have five justices who would be willing to reconsider *Obergefell*, and we asked them to do so. To our knowledge, we were the first group to call on the Supreme Court to overrule Obergefell after Justice Kavanaugh replaced Justice Kennedy.

The Court decided to deny certiorari review, but Justices Thomas and Alito issued a statement that made national news reflecting the points we made in our brief. Justices Thomas and Alito agreed that the Court's decision in *Obergefell* was wrong and that one of its side effects was jeopardizing the religious freedom of Americans like Kim Davis. Justices Thomas and Alito ultimately agreed to deny reviewing this particular case because Davis did not specifically ask the Court to revisit *Obergefell* or consider religious liberty as an affirmative defense. **However, those justices have now called on the Court to take up those issues in the future.**

### III. New *Amicus* Brief

Even in spite of our increased workload due to the litigation in *Spell*, *Conner*, and *Case*, we filed one new *amicus* brief at the Supreme Court in



*Uzuegbunam v. Preczewski*. In this case, Chike Uzuegbunam was censored for sharing his faith at a public university in Georgia in which he was enrolled. When Alliance Defending Freedom sued on his behalf, the University attempted to defend its actions under the “fighting words” doctrine. Under Supreme Court precedent, words that would by their very utterance incite a reasonable person to start fighting are not considered protected speech. ***The University thus argued that preaching the Gospel fell under the fighting words doctrine because some people got upset over the message!!!***

The Supreme Court agreed to take the case, and the Foundation filed an *amicus* brief addressing the danger of the University’s position. If preaching the Gospel constitutes “fighting words,” then the government can criminalize evangelism. It is every Christian’s duty to “make disciples of all nations.” Matthew 28:19. Thus, we argued that the Supreme Court must sharply rebuke the argument that sharing the Gospel is fighting words. *We fear that if the Court does not discredit that argument now, then it will be used to criminalize evangelism later.*

#### **IV. Other Matters**

We had the privilege this quarter of helping fight off another meritless threat from the Freedom From Religion Foundation. The FFRF sent a letter to the Chief of Police for Hartford, AL, demanding that he remove a reference to Joshua 1:9 (“Have not I commanded thee? Be strong and of a good courage; be not afraid, neither be thou dismayed: for the LORD thy God is with thee whithersoever thou goest”) and the phrase “One Nation Under God” from the department’s Facebook page. We responded, arguing that Joshua 1:9 is *entirely appropriate* for police officers. We also argued that by the FFRF’s logic, **the department would be banned from displaying the Pledge of Allegiance!** The FFRF has taken no further action.

#### **V. New Personnel**

The Foundation hired three new employees this quarter. We were pleased to welcome Talmadge Butts as our newest attorney at the Foundation. Talmadge recently graduated from the Thomas Goode Jones School of Law in the top 20% of his class and was a member of its law review and moot court programs. We also hired Whitney Farmer as our newest executive assistant and Emily Smith as our new paralegal. All three new hires have been doing fantastic work and have made a valuable contribution to the Foundation’s efforts.

## VI. Update on Our Founder

Judge Moore is serving as our lead counsel in *Spell* and *Case*. This quarter, he was admitted to the bar of the United States Supreme Court so he can serve as our lead counsel when we ask the Supreme Court to review the Fifth Circuit's decision in *Spell*. Judge Moore will also serve as lead counsel in *Conner* once he is admitted to the bar of the United States District Court for the Southern District of Alabama.

We are pleased to be doing this important work to defend religious freedom, our Constitution, and the rule of law...**but we can do it only with your help! Will you please continue to support our work with a tax-deductible donation of \$35, \$50, \$100, or even \$500 today?**

Thank you for your support! We hope you have been pleased with our efforts, and I look forward to reporting to you at the end of the next quarter what we have been able to do with your investment in our ministry!

Sincerely,



Kayla Moore, President