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COMM 650

Assignment One

First Amendment

The first amendment has several distinct elements or freedoms that are guaranteed. Below are four examples that exemplify each of these four distinct elements.

1. Congress will not legislate an establishment of religion.

Lawsuit Claims Anti-Muslim Bias in Maryland Town Amid Mosque Dust-Up
<http://www.foxnews.com/story/0,2933,377141,00.html>

In Walkersville, Maryland, a Muslim group was strong armed by the rural town's officials not allowing them to build a mosque or hold annual conventions. David Moxley and his father, the project developed filed a federal lawsuit claiming discrimination. The purchase of land was cancelled by the Ahmadiyya Muslim group after the local town board, which consists of three members, rejected their request to use the land which had previously been zoned for farming. The officials' reasons for the rejection consisted of the following "open space preservation concerns and fears that the thousands of people attending the group's annual, three-day Jalsa Salana national convention would overwhelm the community's roads and emergency services."

David and Robert Moxley's complaint was filed in U.S. District Court in Baltimore. The complaint implies that the town leaders "conspired to block the Ahmadi by adopting new land-use restrictions, including one barring places of worship on agricultural land, after the group publicly announced its plans for the site."

In addition to First Amendment violations, the complaint alleges violations the 14th Amendment, which provides equal protection to all, as well as the federal Religious Land Use and Institutionalized Persons Act, which bars land-use regulations that would

discriminate against a religious organization. In addition, violations also include the Fair Housing Act, because the members of the Muslim group planned to live on the property. The developers, are suing for unspecified damages, a court order forcing the town to permit the sale of the land and a declaration that the town violated civil-rights of this group.

2. Freedom to exercise your religion is guaranteed.

Supreme Court allows states to deny divinity scholarships
http://www.usatoday.com/news/nation/2004-02-25-scotus-religion_x.htm

The Supreme Court's decision in the 2004 court case of Locke vs. Davey, allows states to withhold scholarships from students studying theology. "The court's 7-2 ruling held that the state of Washington was within its rights to deny a taxpayer-funded scholarship to a college student who was studying to be a minister."

Joshua Davey, a student of theology, was a recipient of a state Promise Scholarship. But, the scholarship was revoked when the state learned that he planned to major in theology. Chief Justice Rehnquist stated that "Training someone to lead a congregation is an essentially religious endeavor. Indeed, majoring in devotional theology is akin to a religious calling as well as an academic pursuit."

Thirty-six out of 50 states prohibit spending public funds on this kind of religious education and Washington is one of them. In this case two justices dissented - Antonin Scalia and Clarence Thomas. Scalia was quite vocal that this case was about "discrimination against a religious minority."

In this case, Davey's lawyers argued that the state violated his constitutional right to worship freely. Ironically, Josh did not wind up entering into the ministry after graduation, and he was in law school at the time the article was published.

3. Peaceful assembly.

ACLU of Colorado Sues to Ensure DNC Protesters' Rights
http://www.progressive.org/mag_ms050208

Your right to peaceful assembly was not so apparent at the Democratic National Convention in Denver on August 25-28, 2008. Protesters were not told by the Secret Service or the city where they were “allowed to protest.” The article states that “It should be considered an abomination even to have to ask, under our Constitution, to exercise our First Amendment rights.”

Not only did Denver refuse to process any applications for parade permits during the convention, and it refused to disclose any information about the demonstration zone. Steven D. Zansberg, the ACLU cooperating attorney is one of the plaintiffs in a case that hopes to ensure the DNC Protesters' rights. Plaintiffs in this case also included the ACLU, American Friends Service Committee, American Indian Movement of Colorado, Americans for Safe Access, CODEPINK, Escuela Tlatelolco, Troops Out Now Coalition, Recreate 68, Rocky Mountain Peace & Justice Center, Citizens for Obama, Tent State University, and United for Peace and Justice.

In order to plan and organize for peaceful assembly, the plaintiffs put in numerous requests the City and County of Denver, which has “refused even to begin the process of issuing permits needed to conduct ‘parades’ (political protest marches) along the public thoroughfares that from time immemorial have been reserved for such expressive use by the People.”

Denver City Attorney David Fine gave the following statement: “No one has been denied a parade permit. No one has been denied the right to protest. In fact you will see a vigorous exercise of free speech during the convention – in many ways and in many places. That being said, we will review the plaintiff’s papers and respond as necessary.”

4. Right to petition the government.

Yale University Sues Rumsfeld for First Amendment Violation

http://www.thehilltoponline.com/home/index.cfm?event=displayArticle&uStory_id=54dacbc4-4531-4097-9085-531839212f6e

Forty-four faculty members at Yale University's law school filed a lawsuit against U.S. Secretary of Defense Donald Rumsfeld stating that Rumsfeld “violated their First Amendment rights by using bullish tactics to implement a military recruiting program on campus.” The recruiting program would give the military access to all students' records and allows the recruiters to look to enlist students after graduation.

In addition, the military refused to sign an anti-discrimination agreement. That article states that the faculty members who are filing the lawsuit claim that the military discriminates against gays and lesbians with their "don't ask, don't tell" policy. The consensus amongst faculty members and their peers seems to be that "Yale has a good basis for a lawsuit because it is a private entity with the right to prohibit [outside] agencies from accessing student information for recruiting purposes. They shouldn't be punished for taking a stand."

The article also states that if “Yale had refused the allowance of the military on campus, under the terms of the Solomon Amendment, the university would have risked losing \$300 million in research funding from the government. The 1996 Solomon Amendment gives the government the right to deny funding to any institution that refuses to allow the military to recruit on their campus.” Because of the pending threat from the government, Yale temporarily relaxed its policy, allowing the military to begin its efforts.