



ADF CASE UPDATES OCTOBER 2004

In just eleven short years, the Alliance Defense Fund has been involved in hundreds of cases in defense of religious freedom, the sanctity of human life, and traditional values. The stories below are just a small sampling of the ongoing battle to protect our religious liberty, reclaim what we have lost, and shape a future where religious freedom is affirmed.

DIVINE PROVIDENCE

In 1993, Robert Wendland, a husband and father of three, was critically injured in an automobile accident that left him cognitively disabled. After sixteen months in a coma, Robert awoke, and with time and physical therapy, started to regain some cognitive and physical abilities. Nevertheless, midway through his physical therapy, his wife, who also served as his conservator, sought to not only have his treatment stopped, but also to remove his feeding tube. This was despite the fact that Robert had never expressed his wishes regarding future treatment if he became disabled. Robert's mother went to court to block the tube's removal and with the assistance of ADF and its allies, she won at the trial court level.

His wife appealed to the appellate court which ruled in her favor. Robert's mother then appealed to the state Supreme Court. By this time, Robert had progressed to the point that he could operate a manual wheelchair with his left hand or foot or an electric wheelchair with a joystick. He could also operate an augmentative communication device to give "yes" or "no" answers to questions.

The California State Supreme Court issued an unanimous 6-0 decision ruling in favor of Robert's mother and consequently, the right to life for disabled individuals was affirmed and the so-called "right-to-die" was dealt a crushing blow.

Now...here is where God's tremendous providence comes into the picture and how He can turn tragedy into triumph...

Sadly, Robert Wendland passed away after the California Supreme Court heard the oral arguments in the case. If Robert had died earlier, while this case was still at the lower court level, it might have never made it to the California Supreme Court because the issue could have been considered moot and untold numbers of disabled individuals may have faced an early death.

Janie Hickok Seiss, the attorney for Robert's mother said: "It [the decision] is going to save a lot of lives. I just wish Robert were here for this."

But through His providential timing, the Lord used Robert Wendland's tragedy to give hope to those individuals and families who will face such difficult decisions in the future.

STARVING SENIORS

For twenty years, senior citizens at the Balch Springs (Texas) Senior Center have used the facility for social programs and recreational events. A group of Christian seniors had also gathered – without government interference -- at the center to sing gospel songs and hear the Word of God from a retired pastor. These seniors also quietly say a word of thanks to the Lord when they receive their meals at the center. All prayers and participation in the worship service are voluntary – no one is coerced into praying or attending.

Then things changed. In August 2003, the city of Balch Springs enacted a new policy that stated that all mealtime prayers, gospel music, and "religious messages" cease immediately. No other group was censored, only Christians.

Liberty Legal Institute, with ADF's backing, jumped in to defend the right of these seniors to worship God at the center. Liberty Legal immediately sent a demand letter to the city – which was ignored -- to reverse its policy or face a lawsuit on the grounds that they had denied the seniors their First Amendment right to worship freely. The seniors were willing to take a stand. Some began to very peacefully picket the center to protest the actions of the city.

Then the city fired the center's events planner and bus driver – cutting off the seniors' access to museum outings, the state fair, and funerals of their friends. They even refused to allow the seniors to go to the drug store to get their prescriptions filled!

As promised, Liberty Legal – led by ally Kelly Shackelford -- filed a lawsuit against Balch Springs – alleging multiple violations of both the Texas and U.S. Constitutions. The city's response? They threatened to stop the meal service to the seniors if they did not drop the lawsuit!

The situation had gotten so bad that the United States Department of Justice got involved – opening an investigation of the city's policy.

Finally, at the federal courthouse in Dallas, Balch Springs agreed to end its discriminatory policy. In addition, the judge ruled that the seniors were to receive monetary damages from the city.

THE CASE OF THE BABY PICTURES

Emily (last name omitted for privacy) is a 15-year-old girl from Ruston, Louisiana who found herself pregnant *and* scared. Like many confused teenagers, she did not know where to turn – especially since she had already experienced the serious devastation of a broken home.

In Louisiana, a minor needs to have parental consent before she can obtain an abortion. Emily's estranged father escorted her to a Shreveport abortion facility and signed a "parental consent" for the abortion – which was scheduled for a few days later.

Emily's mother believed in the sanctity of human life and is the custodial parent for Emily and her two younger siblings. With the assistance of ADF attorney Mike Johnson, she filed an emergency petition with the court for a restraining order to stop the abortion. The court agreed and ordered Emily to be counseled on abortion alternatives.

There was reason to be concerned. The Louisiana statute says that a minor needs only the consent of one parent to obtain an abortion. The court needed to decide whether or not this overrode the meaning and application of Louisiana's statute governing joint custody arrangements and establishing the legal superiority of the custodial parent's will in major decisions affecting a minor child.

Mike Johnson said: "As straightforward as this may sound, these issues are extremely complex in light of existing federal and state case law. Let's just say that the local casinos would have gleefully given us very low odds for winning this case!" Mike then reported the **great news**: "[But] thanks to your prayers...the Lord showed up this morning and gave us a supernatural victory! The court ruled in our favor...and the decision will prevent the abortion of this baby!"

Several Christian couples had already come forward with interest in adopting Emily's baby...but then the story took a tragic turn.

Emily's father allegedly kidnapped his daughter and took her across state lines to have an abortion – killing the innocent life in her womb. At last report, Emily was extremely distraught and on suicide watch. Please pray for her healing from this tragic action.

THE CASE OF THE SLEEPLESS LAWYER

Pastor Paul Curtis had rented a school to hold worship services but, less than ten days before the first meeting, the superintendent decided to not allow the church to meet there.

When Pastor Curtis asked that he could hold a church informational meeting instead, he was also told “no,” so he called the Alliance Defense Fund for help.

ADF senior counsel Jordan Lorence (who was working for an ADF allied legal organization at the time) called the school district and asked for a six-week grace period but they refused and ordered the church to vacate the school building immediately. There would be no negotiation.

ADF issued an emergency grant to the church so it could regain access to the public school for at least its initial worship service. Jordan Lorence took a red-eye flight to New York City to prepare the request for an injunction.

The school district’s attorney was surprised that someone would make the effort to challenge this policy and she allows the church to have the initial meeting.

THE CASE OF THE FAMILY LIFE CLASS **THE CASE OF THE HALLWAY CONVERSATION**

The state of Connecticut has a statute that allows parents and students to “opt-out” of “family life education” which includes a section on human sexuality. When a father heard about what was to be taught, he decided to exercise his right under the statute and have his son opt-out of the class.

The school refused to recognize the father’s parental right (under the law) and refused to have the young boy excused from class. Rather than having his son attend a class that violated the family’s sincerely-held moral beliefs, they chose to have him not attend. The school flunked the boy, who was a straight “A” student.

ADF allied attorney Vincent McCarthy came to the aid of the family. He said: “Apparently, the education establishment here is looking for a showdown. Interestingly, we have received quite a bit of media support from the normally liberal sources, which demonstrates how far the schools have veered from the norm.”

Eventually, the school relented, and gave the young boy credit for the class and removed the failing grade from his record. They also agreed to honor the Connecticut statute in all further cases.

THE CASE OF THE BRONX HOUSEHOLD OF FAITH

Two young pastors had moved to the Bronx to start an inner-city church. Their church grew as they ministered to the Bronx community and they soon found themselves having to find a larger place to meet.

While the two men were raising funds to eventually purchase a new church home, they needed a temporary place to worship. A local public school, vacant on Sunday mornings, seemed to be ideal. However, when they approached the school district, their request was refused, because of the so-called “separation of church and state.”

For **eight** years, with the assistance of ADF senior counsel Jordan Lorence, these pastors fought for equal access for their church. After a defeat at the United States Supreme Court, things looked bleak. In the meantime, they met in a tent on a vacant lot, in good weather and bad, while they waited for a more permanent church home.

In 2001, God did a miracle. In the ADF-funded U.S. Supreme Court victory, *Good News Clubs v. Milford Central Schools*, which opened the doors for middle schools to allow after-school Bible classes on campus, Justice Clarence Thomas stated that the Bronx case had been wrongly decided and should be reconsidered. Armed with this information, Jordan went back to court on behalf of the pastors.

In June 2003, The U.S. Court of Appeals for the Second Circuit issued a **2-1** decision – on behalf of the Bronx Household of Faith, allowing worship services in the New York City public schools - just like all other community group meetings.

Jordan Lorence says about this win: ***“It pays to persevere. For a generation, the federal circuit court of appeals has constantly refused to allow worship services in New York City public school buildings while all other community groups were allowed to meet, until today. In this 2-1 decision, the Second Circuit has reversed its anti-worship holdings based other ADF-funded precedents. By building one victory after another, and setting legal precedents along the way, we have now, by God’s grace, been able to knock down what seemed to be an impenetrable barrier to the Gospel in our nation’s largest city. The doors of the approximately 1200 school buildings in New York City, that for decades have been closed to any form of worship service, have now been opened on equal terms with others.”***

“When Pastors Hall and Roberts left Francis Schaefer’s L’Abri Fellowship in the early seventies, they asked themselves, ‘What can we do to evangelize New York City?’ Never in their wildest dreams would they have suspected that the Lord was going to use them to tear down this stronghold and open up almost 1200 closed doors for the Gospel of Jesus Christ. Their dogged persistence and prayers, along with the support of ADF’s ministry friends, has now set forth the healing power of the Gospel of Jesus Christ to move throughout New York City.”

THE CASE OF THE BANNED SANTA CLAUS

An elementary school in Baldwin City, Kansas had a tradition of letting an individual from the community to come and visit the school dressed as Santa Claus to celebrate Christmas with the school children.

But then the ACLU got involved.

The ACLU took special exception to this past year's Santa, who was an associate pastor from a local church. When he asked the children why Christmas was celebrated, a little girl said it was because it was Jesus' birthday. That brought out the censors from the ACLU who immediately sent a letter demanding that this practice be stopped. ADF attorney Dale Schowengerdt sent a letter to the Superintendent to equip him with the law in regard to the school's ability to invite outside guests.

As a result, the school has stood up to the ACLU and the ACLU has backed down.