



SPRING 2016



FREEDOM OF SPEECH AND RELIGIOUS LIBERTY

CIVIL LIBERTIES IN VIRGINIA

The ACLU of Virginia is a vigorous defender of freedom of speech, as well as freedom of the press, and the rights of demonstrators. This, along with the right to practice religion, or no religion at all, are among our most fundamental liberties guaranteed by the First Amendment of the Bill of Rights.




ACLU
AMERICAN CIVIL LIBERTIES UNION
of VIRGINIA
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Mark Your Calendars!
Northern Virginia Chapter
of the ACLU
Crabfest & Annual Meeting
Sunday,
June 12, 2016

CAPITOL PROTESTS END IN FORCE

On Feb. 20, Virginia Capitol Police forcibly removed peaceful protestors who were sitting on the steps of the Capitol Building.

Eight protesters were cited for unlawful trespass, a Class 1 misdemeanor that carries a potential fine of \$2,500 and up to a year in jail. Capitol Police responded to the lawful exercise of free speech with aggression and intimidation but it was just another day at the house that Jefferson built.

The ACLU of Virginia calls upon the governor to review and amend Capitol Square protest regulations to allow for more free and open redress of government grievances by its citizens. The vague and overly restrictive regulations governing speech on the Capitol Square are found in the Virginia Administrative Code, 1 VAC 30-100-10. This regulation only allows for gatherings at the Bell Tower, which is a relatively small area at the far south

west corner of the Capitol Square, far from the offices of lawmakers.

Protestors on Feb. 20 initially held their opening rally at the Bell Tower. Upon the completion of their march through downtown Richmond, they returned to Capitol Square to continue demonstrating. Around 30 participants decided to sit down on the steps of the Capitol Building and demand



that Gov. Terry McAuliffe meet with them to discuss their grievances regarding recent Department of Environmental Quality permits granted to Dominion Virginia Power to dump treated coal ash water from 11 holding ponds into the James River and other waterways around the state.

In a show of unnecessary force, Capitol Police removed protestors from the steps, blocked the Capitol steps with a line of officers, ordered everyone out of the plaza in front of the Capitol, and cited eight protestors for trespassing.

The ACLU of Virginia is working with several community groups to pressure the governor to amend the rules and allow for more open and free speech on Capitol Square. Citizens of the Commonwealth must be allowed to redress their grievances without fear of or intimidation by police.

REGISTER
TODAY!

ACLU of Virginia NoVA Chapter
Crabfest & Annual Meeting
Sunday, June 12, 1 - 4 p.m.
(Rain or Shine)

Fort Hunt National Park, Area B
8999 Fort Hunt Road, Alexandria Va. 22308

Register online before noon on June 9 at:
bit.ly/2016CRAB

or by mail:

Enclosed is \$_____ to reserve places for
_____ Adults (at \$20/person)
_____ Children, ages 6-12 (at \$5/person)

Name(s): _____

Phone: _____

Email: _____

Send this form with your check made payable to:

ACLU of Virginia
701 E. Franklin St. Suite 1412
Richmond, Va. 23219
Memo: Crabfest

Checks must be received by June 9

No on-site registration allowed
Questions?

703.360.1096 | novachapter@acluva.org

RELIGION SHOULD NEVER ECLIPSE RIGHTS

By Claire Guthrie Gastañaga
Executive Director

Religious liberty is among our most precious constitutional rights.

In this country, the government may not tell private individuals or institutions what to believe, how to worship or how to express their beliefs. For this reason, the ACLU of Virginia has defended the right of a Jehovah's Witness employed by the federal government to refuse to sign a loyalty oath, the right of a minister to use a river in a public park to perform baptisms, and the right of public school students to wear rosaries to school and post the Ten Commandments on their lockers.

In each of those cases, the government's actions went to the core of religious belief and expression.

But while precious and fundamental, the right to religious exercise is not absolute, and does not automatically grant blanket exemptions from laws that advance the general welfare and protect individual rights. For example, a parent may not abuse his child, even if he is sincerely motivated by the biblical admonition that "he that spareth his rod hateth his son: but he that loveth him chasteneth him betimes."

Similarly, a person with strong religious objections to war is still required to pay taxes that support the Department of Defense. And, Bob Jones University was not allowed, in the name of religious liberty, to maintain its tax exemption and discriminate intentionally against some applicants and students based on their race.

Large corporations and institutions with numerous employees, particularly those that engage actively in offering or selling their services to the public and accept federal and state funds in payment for some of those services, have the ability to affect many lives through their conduct.

The extraordinary control employers have over their employees is why we have federal and state laws that require employers to provide safe workplaces and to refrain from discrimination. These goals would be undermined if every employer were entitled to choose which laws to comply with based on the religious or moral beliefs of the employer.



PETERSBURG: A LESSON IN FREE SPEECH

The right to speak in a public forum belongs to everyone in America but too often is violated by government officials seeking to regulate open discussion of their activities.

In January 2015, Petersburg resident Linwood Christian attempted to exercise his right to speak before his city council. Mayor Howard Myers denied Mr. Christian his rights under the First Amendment of the U.S. Constitution.

The reason? Mr. Christian had previously run for public office and had an unpaid fee associated with his candidacy.

With the help of the ACLU of Virginia, Mr. Christian sued the city council and Mayor Myers.

In November, the city agreed to a settlement favorable to Mr. Christian. The city was required to pay \$3,000 in attorney's fees to the ACLU of Virginia and to post a statement to its website which reads in part:

"The City and the Mayor support the first (sic) Amendment and the right of the citizens and business owners of Petersburg to participate in the public information period of City Council meetings in accordance with the Rules of Council."

The City of Petersburg hopefully has learned a hard lesson about respecting the rights of its citizens to participate in public forums.



SAVE THE DATE!

"Reclaiming Our Democracy"

Mark your calendars for a special one-day conference featuring national and local speakers reflecting on changes in American society since

Sept. 11, 2001.

Saturday, Sept. 17, 2016

University of Richmond
Richmond, Va.

KNOW YOUR RIGHTS

By Charlie Schmidt
Public Policy Associate

The current presidential election cycle has already shown itself to be one marked with protests, volatile rhetoric and violence.

Images of protestors and counter-protestors being dragged out of campaign rallies have dominated the media. As the primary season moves towards conventions and the general election begins, the ACLU of Virginia will be monitoring protest activities in Virginia to ensure First Amendment rights are protected and people are not subjected to discrimination by police or political officials.

Virginia is a political swing state and candidates undoubtedly will plan more rallies in the Commonwealth as the November election nears. Many rally attendees may not know the full scope of their rights in Virginia. Additionally, many may be visiting from states that have additional protections against discrimination that Virginia does not have. It is important to distinguish what protections are afforded by federal law and what protections, or lack of protections, are afforded by Virginia.



The First Amendment of the U.S. Constitution guarantees the right to protest and demonstrate in public. This right is also guaranteed to counter-protesters who may choose to show up to a rally. However, depending on the circumstances, the rights of the rally organizers may trump the rights of protesters.

First, if a campaign rally is by invitation only and held on private property, the organizers have a right to exclude whomever they choose. Even if the rally is held in a public space or is open to the public, organizers have a right to exclude protestors, or anyone who brings an opposing opinion or counter-message. Courts have routinely found that organizers of a rally have the right to control their own message. Most often, organizers rent space for rallies and gatherings, which gives them the right to exclude disruptive people for “trespass” and enlist local police to eject such people.

There is a caveat, however. If the rally welcomes the general public, even if it is held at a private location, organizers must abide by anti-discrimination, “public accommodation” laws. Title II of the Civil Rights Act of 1964 prohibits discrimination in public accommodations based on race, color, religion, national origin.

The Americans with Disabilities Act (ADA) prohibits discrimination based on a disability. For many states, this protection is expanded through state law to include prohibitions on discrimination based on sex, sexual orientation, gender status, veteran status and even sometimes age and political affiliation.

Clearly, then, a campaign cannot ban all Muslims from its rallies. However, public accommodation laws are less clear in Virginia when it comes to discriminating against women or members of the LGBTQ community.

The Virginia Human Rights Act (VHRA), on its face, seems to ban discrimination in public accommodations against a long list of individuals including “sex, pregnancy, childbirth...” and so forth. But the law doesn’t provide a private cause of action for those facing discrimination. The VHRA only states that it is the “public policy” of Virginia not to discriminate but offers no real remedy to women and members of the LGBTQ community. Individuals could possibly rely on local anti-discrimination ordinances to seek a remedy, but only a handful of local ordinances expand this protection.

So, effectively, a campaign could host a rally in Virginia and potentially deny access to anyone organizers thought was gay, lesbian, or bisexual. They could turn away anyone they thought to be transgender. They could even eject women without any fear of a lawsuit.

In 2016, with a female candidate for president of the United States, this lack of protections in Virginia is embarrassing but real. Aside from monitoring rallies this election season, the ACLU of Virginia will continue to fight to correct this injustice. Each year we introduce and support legislation in the General Assembly to correct this ill, but resistance has been strong.

Women and members of the LGBTQ community should not fear being singled out and told they cannot enter a place that is allowing others to attend. That sort of stigma is especially harmful, given Virginia’s history of segregation.

In any case, if you choose to participate in a public rally or demonstration this election season, it is critical that you *Know Your Rights!*

