



# ACLU

AMERICAN CIVIL LIBERTIES UNION  
of SOUTH CAROLINA

American Civil Liberties Union of South Carolina Foundation

*Because Freedom Can't Protect Itself*

# NEWSLETTER

November 2012



*A discussion with Dan Mach, Director  
ACLU Program on Freedom of Religion and Belief*

### What is Religious Freedom Goes to School in South Carolina?

Religious Freedom Goes to School is a joint campaign of the ACLU of South Carolina and the national ACLU Program on Freedom of Religion and Belief. We are challenging the state's public schools to do more to protect the fundamental guarantee of religious liberty, which includes both the right to religious belief, expression, and worship, and the right to attend public schools free from government-sponsored religious favoritism.

### Why are you focusing on public schools?

The basic First Amendment guarantees of religious liberty in public schools have been well-established for over half a century, but all too often schools are ignoring or flouting the law. All students, regardless of faith or belief system, should feel safe and welcome in our public schools. Students have the right to decide for themselves what faith, if any, they will follow, without direct or indirect pressure from school officials.

### Why South Carolina?

The issues addressed by our campaign certainly are not unique to South Carolina, and the ACLU regularly tackles these problems nationwide. Our new campaign's initial focus on South Carolina, though, can be traced to the growing list of challenges that have arisen in the state in recent years.

Most prominently, we successfully fought widespread and pervasive school-sponsored religious practices in Chesterfield County, securing a strong court order and policies that can serve as models for public schools around the state.

**And that was just the tip of the iceberg.**

*(Continued on page 2)*

### From the Executive Director . . .

**Victoria Middleton**



While we are still surveying the post-election landscape, we see challenges looming in our state to women's access to reproductive health services, voting rights, and the due process and equal protection rights of immigrants.

In 2013, we will also continue to engage to end the 'school-to-prison pipeline,' discrimination based on sexual orientation and gender identity, and religious proselytizing in public schools.

As South Carolina students returned to school, we launched a "Religious Freedom Goes to School" campaign to address Establishment Clause violations in public schools. (See Dan Mach's column at left for more on this.)

The state legislature will remain a battleground over women's reproductive health, as bad bills that have been defeated in previous sessions will likely return. Limits to insurance coverage, burdensome procedures and other challenges can be expected from politicians who want to come between a woman and her doctor in making health care decisions.

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### Notice of the Election ACLU of SC Board of Directors

**In early December 2012, all active members of the ACLU of South Carolina will receive written ballots to elect new Directors. Please watch the mail for this important ballot.**

**This newsletter is not a ballot.**

The Nominating Committee of the Board of Directors has proposed a slate of candidates for the Director seats to be elected by the general membership in this year's election. These include current Directors who are eligible to run as well as new candidates. Bios of the candidates are included in this newsletter and can also be found on our website:

[www.aclusouthcarolina.org](http://www.aclusouthcarolina.org)



ACLU members view the HBO documentary, *The Loving Story*, which recounts the story of the landmark case *Loving v. Virginia* won by the ACLU 55 years ago. This precedent-setting decision resulted in 16 states being ordered to overturn their bans on interracial marriage.

## From the Executive Director . . .

*(Continued from page 1)*

We blocked the state's Voter photo ID law in the 2012 election, and as a result of our opposition to Act 54, the state will have to mitigate its impact on voters in future elections. We plan to expand our non-partisan education of voters on their rights and responsibilities well beyond 2012.

Many eligible voters in the South Carolina have lost their voting rights because of prior convictions (often for low-level, non-violent drug offenses). The Sentencing Project estimated in 2010 that 1.2% of the current voting-age population in South Carolina has been disfranchised, or 43,000 of the 3.5 million people of voting age. Restoring voting rights to the disfranchised will be a priority for us, moving forward.

The state's sizeable immigrant community remains vulnerable and confused about its rights as the legal battles and political debates about changes in immigration laws continue, in South Carolina and beyond. We will continue to fight expansion of the federal 287(g) programs in South Carolina that permit local law enforcement to act as immigration agents in certain situations, and we will defend against unconstitutional searches and detention of people based on how "foreign" they look.

Join with us to educate your neighbors about the constitutional rights of everyone in our state, and to advocate with your local officials and representatives in the legislature for laws that are fair and just. We have wonderful volunteers, but we welcome more. Sign up on our website page "Get Active" at [www.aclusouthcarolina.org](http://www.aclusouthcarolina.org)

**Board Elections** In addition to the slate proposed by the Nominating Committee, nominations may be made by the general membership.

To submit a nomination for a candidate for the Board of Directors, a member must submit the following materials on or before December 7, 2012:

- (1) a petition bearing the signatures of at least fifty active members of the ACLU of South Carolina in support of the candidate
- (2) a written statement by the candidate of his/her willingness to serve
- (3) a brief (no more than 150 words) biographical statement.

These materials must be sent **by mail** to be received by December 7, 2012 to:

Board Secretary • ACLU of SC • PO Box 20998 • Charleston, SC 2941

Members may nominate themselves or another member.

This information is also posted on our website.

*(Continued from page 1)*

## Religious Freedom Goes to School

A discussion with Dan Mach



In the last two years alone, students, parents, and teachers have contacted the ACLU of South Carolina to report, among other constitutional violations: in-class daily prayer led by teachers; the distribution of Bibles; official prayer and scriptural readings at graduation ceremonies, athletic events, awards ceremonies, and other school activities; school-day assemblies with ministers who preached to students; coach-led prayer at football practices; opening prayer at school board meetings; school officials leading and participating in student religious clubs; and school involvement in the planning, and promotion of, religious baccalaureate services.

### Is this campaign anti-religion?

**Of course not.**

In addition to fighting official, school-sponsored religious practices, Religious Freedom Goes to School will work to ensure that South Carolina public schools accommodate, as much as possible, students' religious exercise and expression.

This is in keeping with the ACLU's historic commitment to defend the rights of all Americans—of majority and minority faiths alike—to practice their religion.

*Recent examples of our work in this area can be found at [www.aclu.org/defendingreligion](http://www.aclu.org/defendingreligion).*

*And check out our Religious Freedom Goes to School in South Carolina Blog Series at [www.aclusouthcarolina.org](http://www.aclusouthcarolina.org)*



ACLU of SC volunteers march in Upstate Pride parade Spartanburg, September 2012

## From the President...



*(Joseph Darby, Acting President).*

Our affiliate's program addresses the critical civil liberties issues in our state including voting rights, reproductive freedom, immigrant rights, LGBT rights, First Amendment freedoms, and equal justice for all. With your support and engagement, these efforts can be multiplied many times.

Some of you volunteer your time to stand with ACLU of South Carolina at community events. Others write letters to the editor or to their local officials about civil liberties issues. Some members donate their legal expertise as cooperating attorneys and others contribute generously to sustain our state-wide presence. All of these contributions are much appreciated. All serve one vitally important purpose: defending the constitutional rights of everyone in our state.

In a few weeks, you will receive a ballot to elect new members of the Board of Directors.

The Nominating Committee of the ACLU of SC Board of Directors has worked diligently to recruit a slate of candidates that reflects diversity in the best sense, as well as commitment to civil liberties and impressive experience. Please look for the ballot, and please take time to vote. This is an important contribution every member can make.

*Joseph Darby, Acting President.*

## Meet the Candidates

### \* *Indicates current Board member running for 1 re-election*

**Adolphus G. Belk, Jr.**, is an Associate Professor in the Department of Political Science and Program Director of the minor in African American Studies at Winthrop University in Rock Hill. His research and teaching interests include the politics of mass incarceration, race and ethnic politics in the U.S., public policy and American government. He has a B.A. from Syracuse University and an M.A. and Ph.D. from the University of Maryland, College Park.

Professor Belk's research has been published in the *Journal of Race and Policy (JRP)* and by the Joint Center of Political and Economic Studies. He recently served as a guest editor for a special issue of the *JRP* that examined the implications of the 2008 presidential election on race, racism, and public policy in the United States. He is currently working on a book on the politics of the American prison-industrial complex. His professional memberships include the American Political Science Association and the National Conference of Black Political Scientists. He has been a faculty mentor and recipient of teaching awards at Winthrop, in addition to serving as pre-law advisor.

**L. Russell Bennett** was a founder and managing partner with the Charleston-based law firm of Davidson & Bennett, and is a member of the American Bar Association as well as the South Carolina Bar Association. Mr. Bennett received a B.S. degree in Business Administration from the College of Charleston and a J.D. degree from the University of South Carolina School of Law.

He was a founding board member of Darkness to Light, a Charleston-based national nonprofit organization promoting awareness of childhood sexual abuse, and is currently the chairman of Wings for Kids, a nonprofit organization that teaches social and emotional learning in an after-school environment. He is on the board of directors of the World-watch Institute, a global environmental nonprofit based in Washington, D.C. Mr. Bennett retired from the practice of law in 2000 and is now engaged primarily in real estate investment.

**Heather Cairns** is a partner in the Law Offices of Burnett & Cairns, Inc., in Columbia. She has focused her practice in estate planning, estate administration, domestic law and real estate since opening her practice in 2005. Her clients include gay and lesbian individuals and couples who, without planning, can leave their loved ones without any rights. She serves as a Guardian ad Litem for minors, those with mental illness, and the elderly in probate and circuit court.

Ms. Cairns is admitted to practice law in South Carolina and the District Court of South Carolina. She received her B.S. from Kent State University, her Master of Landscape Architecture from Ohio State University and her J.D. from the University of South Carolina School of Law with honors. She was an editor for the *Journal of Law and Education*.

Prior to her career as an attorney, she practiced as a Landscape Architect in Beaufort County, SC and in her hometown of Cleveland, Ohio.

\* **Joseph A. Darby** (Acting President) is Senior Pastor of Morris Brown A.M.E. Church in Charleston and a member of the General Board of the A.M.E. Church. Rev. Darby attended South Carolina State University and is a graduate of the University of South Carolina and the Lutheran Theological Southern Seminary. Rev. Darby previously served on the boards of the United Way of the Midlands, the Center for Religion in the South, the Midlands Teen Pregnancy Prevention Council, and the Columbia Branch of the NAACP.

A prolific author and commentator, he has served on the State Superintendent of Education's African-American Achievement Committee and the Racial/Cultural Advisory Council of the South Carolina School Boards Association. Rev. Darby is presently a Board Member for the South Carolina School Improvement Council, the South Carolina Advisory Committee for the U.S. Global Leadership Coalition and is a Life Member of the NAACP and First Vice-President of the Charleston Branch.

**Marcy L. Hayden** is the Native American Affairs Coordinator at the South Carolina Commission for Minority Affairs, where she manages the state's Native American Affairs Initiative and oversees the state recognition process for Native American entities. She also serves on various federal, state, local and non-profit boards representing Native American interests.

Previously she was a case manager and program assistant at the SC Youth Challenge Academy, where she worked with at-risk youth and initiated a Native American community outreach program. She has also worked at the SC Institute of Archaeology and Anthropology.

Ms. Hayden was the Census 2000 spokesperson for the Native American community and is a Native American Ambassador/Princess of several Native American Groups. She regularly speaks on Native American history and culture at schools, colleges, community centers, and other organizations. She is a graduate of the University of South Carolina.

**Susan Kuo** is an Associate Professor at the University of South Carolina School of Law. Her current research focuses on social justice issues in disaster law and policy, and she has particular expertise concerning riots and mob violence. She has also written about criminal law and procedure, privacy, and legal education. In 2008 and 2010, Professor Kuo was voted Outstanding Faculty Member by the student body. Most recently, she was selected for inclusion in a study of "Best Law Teachers" along with 24 other law professors nationwide.

Prior to entering into teaching, Ms. Kuo was a Special Assistant United States Attorney with the United States Attorney's Office in Atlanta, Georgia. She also completed two federal judicial clerkships, one with Judge Eugene E. Siler, Jr. of the United States Court of Appeals for the Sixth Circuit and the other with Judge Robert H. Hall of the United States District Court for the Northern District of Georgia.

**Robert E. Moss** teaches biology and is a health careers advisor at Wofford College in Spartanburg. His course topics include philosophy of science and the ethics of genetic engineering and other multidisciplinary subjects. He has participated in summer seminars in the NSF Chautauqua Program and at the Dartmouth Ethics Center, and previously taught at Fordham, Columbia and Yeshiva Universities. Dr. Moss' work with Wofford students won a Milliken Challenge prize for using new campus networks to enhance education.

His extensive publications include articles on biomedical ethics, reproductive health, and the ethics of stem cell research. He has served on the institutional review board of Spartanburg Regional Hospital, and has given presentations to the SC Medical Ethics Board, and to the Upstate division of Americans United for the Separation of Church and State, among others.

A graduate of the University of Pennsylvania, Professor Moss received his Ph.D. from Harvard University. He is the lead plaintiff in a First Amendment lawsuit against a local school district.

\* **Ronald Romine** is a Professor of Political Science and Campus Director of the American Humanics Program at USC Upstate in Spartanburg. He is a graduate of the University of North Alabama and has a M.A., M.P.A. and Ph.D. from the University of South Carolina. He is a veteran of the U.S. Army and the U.S. Army Reserves. His teaching and research interests include nonprofit administration, public administration, leadership theory, constitutional law, and state and local government.

Dr. Romine has served on the South Carolina boards of the American Diabetes Association and Salvation Army, and has been active in the Spartanburg League of Women Voters and Chamber of Commerce. The recipient of a U.S. Department of Justice grant, he mounted local roundtable discussions to mark the 200th anniversary of the Bill of Rights. He has developed programs for WRET-TV on the judicial system of South Carolina and teacher training exercises in partnership with the Institute of Government and Public Affairs at USC Columbia.

\* **Ivan Segura** is a Workforce Development Consultant for the Connecting People to Jobs/Workforce Investment Act Program, an initiative to move low-income Hispanic/Latino individuals and other immigrants out of poverty and into living wage jobs by connecting them with job training, education, and support services. Ivan is Vice-President of the Council of Mexicans in the Carolinas, treasurer of the SC Hispanic Leadership Council, and a member of the Board of Directors of the SC Chamber of Commerce's Diversity Council. He acts as the Executive Director for Palmetto Luna Arts, a non-profit organization fostering Latino arts and culture in South Carolina.

Mr. Segura was born in Mexico and lives in Columbia. He has a background in business administration and financial planning. An enthusiastic advocate and believer in collaboration, he has established alliances and partnerships with organizations across the Midlands to improve the quality of life of the immigrant community.

\* **Anne Kelly Tromsness**, a native of Columbia, SC, lives in Greenville. She is Director of Education at The Warehouse Theatre, a regional professional theatre in Greenville's West End, where she develops outreach for schools and other organizations, and community enrichment programming. Recent panel topics have included the state of race in the U.S., the language(s) of sexuality, and how the ethics of difference in popular culture affects personal behavior and policy.

Ms. Tromsness teaches theater and speech at Christ Church Episcopal School. She also performs and directs productions at the Warehouse Theatre and also with the Distracted Globe Theatre Company where she serves as Co-Artistic Director. She earned a B.A. in Women's Studies from the University of South Carolina and her M.A. in Arts Administration from Winthrop University. Other community affiliations include Greenville Forward, Metropolitan Arts Council Arts Education Task Force, Upstate Pride, and the Applied Theatre Center. Ms. Tromsness is a member of the Greenville Unitarian Universalist Fellowship, where she serves on the LGBT Welcoming Congregation Committee.

# Notes From the Legal Docket

*Susan Dunn is Legal Director of the ACLU of South Carolina*

## Hearing on Anti-Immigrant Legislation:

We appeared before Judge Gergel in US District Court in Charleston on November 13 asking him to uphold his injunction of the South Carolina anti-immigrant law. A preliminary injunction in December 2011 stopped critical portions of the law from going into effect.

In the light of last summer's US Supreme Court ruling on the Arizona legislation that served as a model for SC's law, Judge Gergel issued a ruling on November 15 that blocked key provisions of SC's law and recognized that harms could take place if police officers check people's immigration status. The court reaffirmed that it would be unconstitutional for state and local officers to detain individuals on the basis of their status alone and left open the door to future challenges involving civil rights abuses under the "show me your papers" provision of this law. We will continue to closely monitor the law's enforcement in order to protect people's basic rights.



*Susan Dunn (3rd from left) with fellow attorneys and plaintiffs at the November 13th hearing.*

**Election Protection Volunteers:** At training sessions held at the Charleston School of Law and the USC School of Law in Columbia, we trained over 45 volunteers to serve as non-partisan monitors for the November 6 elections for Election Protection, a coalition of voting rights partners in our state.

**On Election Day, the ACLU of SC and its partners addressed complaints called into an election hotline and monitored precincts where problems were expected or reported.**

In addition to long lines at polling places and problems with electronic voting machines, a shortage of paper ballots and inappropriate demands that

voters show a photo ID were reported around the state.

**Voter ID Law:** The Department of Justice denied pre-clearance required by the Voting Rights Act of the SC Voter ID legislation, finding that the law had the intent and effect of restricting minority voters. SC filed suit in US District Court of DC asking the court to pre-clear the legislation.

Our office, together with the ACLU Voting Rights Project, intervened and represented several impacted voters and organizations that advocate for voters. At the end of the August trial, South Carolina made a number of concessions, including acknowledging that a "reasonable impediment" to possessing a photo ID could be any reason asserted by the voter.

Relying on those representations, the Court pre-cleared the law for elections held after December 31, 2012.

**Whether the law will be enforced as South Carolina represented to the court is an open question that we are prepared to monitor.**

**Right to Counsel in Magistrate and Municipal Courts:** Our research has confirmed that many magistrate and municipal courts in South Carolina do not provide counsel for indigent criminal defendants. In June, with the Charleston School of Law, the Charleston County Bar and the SC Association of Criminal Defense Lawyers, we organized a seminar for judges, lawyers, and law students featuring national experts to address this issue.

In October, we appeared as amicus curiae in support of an appeal by a criminal defendant whose request for appointed counsel in a jury trial in the Municipal Court of the Town of Hilton Head was denied. The appellate judge remanded the case back to the Municipal Court and ordered that counsel must be provided if the defendant establishes that he is indigent.

We will appear as amicus in other cases in Surfside Beach and Hilton Head, giving us the opportunity to **expose**

**the fact that the current systems in South Carolina are not constitutional and may lead to civil litigation.**

## Religious Freedom Goes to School:

After our victory in Chesterfield County in winter 2012, which established policies assuring separation of church and state in that school district, we began a statewide campaign to promote freedom from proselytizing and free exercise of religion in public schools.

Following up on a Freedom of Information Act request to all South Carolina school districts, we have offered to work with the districts to obtain voluntary changes to comply with the law. We are prepared to undertake litigation against districts that fail to change policies and practices that violate the First Amendment.

This campaign should come to a close at the end of the current school year but **may serve as a pilot project for ACLU affiliates in other states.**

**Change of Name after Marriage:** One of the first decisions that Amanda and Jason made as a married couple was to use her surname as their family name.

The Department of Motor Vehicles in Greenville told Jason that he could not request such a change on the basis of his marriage license, and he was instructed to get a court order.

Our office sent a letter outlining the constitutional problems with the policy, asking that Jason be issued a new license in his married name and demanding that the DMV change its policy.

The DMV quickly issued Jason a license in his married name and instructed DMV offices to use the same name change procedures for married men and for married women.



*Jason and Amanda Baize*

# Save the Date

ACLU of South Carolina  
Annual General Membership Meeting  
Saturday, January 12, 2013  
2:00 – 4:00 PM

University of South Carolina School of Law  
Columbia, SC

Meet the Board, get updates on our legislative and litigation work and hone your grassroots advocacy skills.

Look for more information in the December ballot mailing.

# Invest in Freedom

**The rights you save  
may be your own.**

You can make a difference. Your generous financial support makes possible our defense of civil liberties in South Carolina.

**Please use the enclosed envelope to contribute to the  
ACLU of SC Foundation.**

*To donate online, visit: [aclusouthcarolina.org](http://aclusouthcarolina.org).*

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