

June 5, 2019

Director John Halikowski  
Department of Transportation  
1655 W Jackson St, MD126F  
Phoenix, AZ 85007

Eric Jorgen, Director  
Motor Vehicle Division  
PO Box 2100 MD555M  
Phoenix, AZ 85001

RE: "Satan Hating" License plate

Dear Director Halikowski and Director Jorgen,

I'm writing on behalf of the Secular Communities of Arizona (SCA) regarding a violation of state license plate policy and rules. SCA is a statewide non-profit organization whose purpose is to protect the constitutional principle of separation of church and state. An Arizona resident has contacted us concerned about the license plate "S8N H8N" that presumably means "Satan Hating."

Ms. Nancy Bailey saw the vehicle on April 17, 2019. She took a photograph of it that I have enclosed. It is the one with the rain marks. She filed a complaint with you on or about April 17, 2019 and has to date no response.

As Ms. Bailey said in her complaint, a government organization should not allow a blatantly offensive license plate that targets members of the Satanic Temple, which is a church recognized by the IRS. She sighted the vehicle again on May 7, 2019 and I have enclosed that photo as well.

In fact, Arizona law prohibits such license plates. While a person may apply for a personalized special plate, (ARS §28-2406), "The department may refuse to issue or may suspend, cancel or revoke any combination of letters or numbers or any combination of letters and numbers that carries connotations that are offensive to good taste and decency, any combination that is misleading or any combination that duplicates other plates." This plate is certainly offensive to good taste and decency.

Department of Transportation rule R17-4-310 outlines the procedure to receive a personalized plate. In subsection (1) (8) the purchaser is required to state the meaning or message of the plate. What did this particular person write on her/his application?

In subsection 2, the department is required to reject the plate if it expresses contempt or ridicule for a class of persons (3); has connotations that are profane or obscene (5); or uses numbers to achieve a prohibited connotation (6). This plate expresses contempt for members of the Satanic Temple, it has connotations that are profane for those believers, and it uses the number (8) to achieve the prohibited message.

The Arizona Constitution has even stronger protections against church/state intermingling than the federal Constitution. In Article XX §1 it provides:

First. Toleration of religious sentiment

First. Perfect toleration of religious sentiment shall be secured to every inhabitant of this state, and no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship, or lack of the same.

This plate directly exhibits lack of toleration for a particular religious sentiment and molests every person who sees it and disagrees with attacking a religion, whether theirs or another.

Further, Article II section 12 of the State Constitution provides:

12. Liberty of conscience; appropriations for religious purposes prohibited; religious freedom

Section 12. The liberty of conscience secured by the provisions of this constitution shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace and safety of the state. ...

Thus while the owner of the plate can hate satan all he likes, he cannot use a government service to magnify this belief to the public and thus justify his actions that are inconsistent with the peace and safety of the state.

Several cases have held that personalized plates, whose messages are approved by the state, cannot be offensive and must be viewpoint neutral. In *Henderson v. Stalder*, 112 F. Supp 589 (U.S. D.C. E.D. LA, 2000) the court held that a preliminary injunction must issue because the state engaged in viewpoint discrimination when only one side of an issue is presented. In *Commissioner of the Indiana Bureau of Motor Vehicles v. Vawter*, 45 N.E. 1200 (2015) the State Supreme Court held that the decisions regarding the plate language are government speech and the plate holders do not have a property interest in the personalized plate. Government speech on license plates must be viewpoint neutral (*Mitchell v. Maryland Motor Vehicle Administration*, 450 Md. 2982, 148 A. 3d 319 (2016)).

Please take steps to ensure this unlawful and unconstitutional action does not occur again. Please inform us in writing of the steps the department has taken to revoke the plate and ensure that more careful screening is applied in the future to prevent such violations. Thank you.

A handwritten signature in black ink that reads "Dianne Post". The signature is written in a cursive style with a large, looped "D" and a horizontal line extending from the end of the name.

Dianne Post, Attorney  
Chair, Legal Committee