



April 11, 2020

Governor Doug Ducey  
1700 W Washington St  
Phoenix, AZ 85007

Subject: Establishment of Religion, Declaration April 10

Dear Governor Ducey,

We are writing on behalf of the Secular Communities of Arizona, a 501(c)3 nonprofit, state-wide, organization. Our purpose is to protect the constitutional principle of separation between state and church. We object to the continued and egregious misuse of your office to promote one particular religion.

On April 23, 2019, we wrote you about your Easter greeting that violated the federal and state constitutions. Because you failed to respond, we wrote you again on June 8, 2019.

In spite of having been forewarned about the constitutional violations, on February 26, 2020, you posted a comment about Ash Wednesday; we sent you a letter regarding that. In your executive order 2020-18 Stay Safe, Stay Healthy, Stay Connected, you exempted churches from the prohibition of large gatherings (4) (f); we wrote you about that on April 10, 2020.

On April 5, 2020 you posted a religious statement about Palm Sunday referencing John 12: 12-13.

On April 10, 2020, you proclaimed a day of prayer and reflection. In that proclamation, you claimed that we could practice our religion freely and that we had a diversity of religion. However, your actions belie your words because your office has supported only one religion - Christianity with passing references to the Jewish religion.

In your April 10 declaration, you claimed the week was significant to Christians and Jews, but that leaves 1,582 other religions not attended to. You claimed that prayers, fasts and reflection are important in times of uncertainty (referring to COVID 19), but it is clear that in this pandemic, science and medical responses are of more importance. You claim that churches are not getting together for in-person services, yet because your executive order excludes churches, many churches in Arizona are meeting thus endangering the entire community. You claim that prayer is unifying and a source of strength and resilience. In fact, overall, 23% of Americans identify as non-religious. Nationally about 35% of millennials are non-religious. The most recent Pew Research poll found that 27% of Arizonans say they have no religion, compared to 23% nationally. (In U.S., Decline of Christianity Continues at Rapid Pace, Pew Research Center (Oct. 17, 2019), available at <https://www.pewforum.org/2019/10/17/in-u-s-decline-of-christianity-continues-at-rapid-pace/>.) Science, reason, and community are sources of strength and resilience for more than 25% of Arizonans. Yet you deliberately exclude them by your declaration.

These repeated behaviors in office have clearly established a pattern and practice of unconstitutional violations and discrimination based on religious belief.



As you have repeatedly been told, the First Amendment prohibits government sponsorship of religious messages. The Supreme Court has said time and again that the “First Amendment mandates government neutrality between religion and religion, and between religion and nonreligion.” *McCreary Cty., Ky. v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844, 860 (2005); see also *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Ark.*, 393 U.S. 97, 104 (1968); *Everson v. Board of Educ. of Ewing*, 330 U.S. 1, 15-16 (1947). This principle is violated when the governor promotes religion on behalf of the state. The Supreme Court has ruled, “(t)he Establishment Clause at the very least, prohibits government from appearing to take a position on questions of religious belief.” *Cnty of Allegheny v. Am. Civil Liberties Union Greater Pittsburgh Chapter*, 492 U.S. 573 (593- 4) 1989.

No one seeing your statements on a government Facebook page should be made to feel excluded and like “outsiders, not full members of the political community,” *McCreary*, 545 U.S. 860 (citations omitted) because the governor is professing a personal religious preference while speaking on behalf of the state government. *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O’Connor, J., concurring) When a governor associates his office with an exclusively religious, exclusively Christian message, he violates this essential constitutional principle.

You know that courts have struck down symbolism that unites government with religion. In *Harris v. City of Zion, Lake County, Ill.*, 927 F. 2d 1491 (Seventh Cir. 1991) the court ruled that the city seals of Zion and Rolling Meadows that contained Christian symbols endorsed religion in violation of the Establishment Clause. Such symbols convey a message that is inconsistent with the first amendment (*Harris* at 1412). The state must be even-handed and avoid any appearance of bias toward some citizens, and hostility toward others.

As you know, a government official can acknowledge holidays but must stop short of promoting a holiday’s religious message. As the Supreme Court has stated, “[t]he government may acknowledge Christmas as a cultural phenomenon, but under the First Amendment it may not observe it as a Christian holy day by suggesting people praise God for the birth of Jesus.” *Cty. of Allegheny v. ACLU of Pittsburgh*, 492 U.S. 573, 601 (1989). The same holds true for celebrating Ash Wednesday, Palm Sunday or Easter. Your social media posts violate this constitutional restriction by using your government position to promote your personal religious beliefs. Your message excludes those who observe these days without subscribing religious meaning to the holiday, as well as those who do not celebrate the holiday at all.

The Arizona State Constitution provides even stronger assurances to maintain the separation of church and state than does the U.S. Constitution. 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. No public money or property shall be appropriated for or applied to any religious worship, exercise, or instruction, or to the support of any

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religious establishment. No religious qualification shall be required for any public office or employment, nor shall any person be incompetent as a witness or juror in consequence of his opinion on matters of religion, nor be questioned touching his religious belief in any court of justice to affect the weight of his testimony.

The state Constitution makes it clear that no state monies may be spent posting religious messages on government property. The Establishment Clause prohibits not only government funding of religious institutions but also the use of the money for any "specifically religious" activities. The history of your Facebook postings can have no other purpose than a "specifically religious" one. Even worse, your messages are aimed at only members of a particular religion i.e. evidencing clearly a state preference not only for religion over non religion but for one religion over others in complete violation of Constitutional law.

These actions also violate Article XX §1 of the Arizona Constitution that 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.

The governor's office is to represent and protect the rights of all residents of Arizona, including those who do not believe in a particular monotheistic god or any gods at all. Using your office to request that citizens celebrate the resurrection of Jesus represents the belief of only one of the three main religions. You contradict your own resolution as our diverse population consists of not only Christians, but also Jews, Muslims, atheists, agnostics, and those who subscribe to minority religions that do not believe Jesus is lord or resurrected. It alienates non-Christians and nonbelievers in Arizona by turning them into political outsiders in their own community.

You took an oath to uphold and defend the U.S. Constitution -- an entirely godless and secular document -- and are charged with great responsibility over citizens under the state Constitution, including those citizens who may not share your personal religious viewpoints. Observing a strict separation of church and state unites and protects all citizens, Christian and non-Christian alike. It offends no one and honors the First Amendment to the U.S. Constitution and the state Constitution. We ask that you cease and desist from using governmental resources to promote your personal religious faith in violation of the federal and state constitutions. Thank you.

Sincerely,

Dianne Post, Attorney