

ACLU Declares Victory for Minister Sentenced to Prison for Criticizing Judge

Court of Appeals Reverses 3-10 Year Sentence

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DETROIT – The American Civil Liberties Union of Michigan applauded a unanimous Michigan Court of Appeals decision today upholding the free speech rights of a Benton Harbor minister who was sentenced to 3-10 years in prison for writing a newspaper article that harshly criticized the judge who presided over his trial.

“The Court of Appeals opinion reaffirms the basic American value that citizens cannot be imprisoned for criticizing government officials or expressing their religious beliefs,” said Michael J. Steinberg, ACLU of Michigan Legal Director. “To our knowledge, this case marks the first time in modern history that a preacher has been thrown in prison for predicting what God might do.”

In 2007, Rev. Pinkney was sentenced to probation for violating Michigan election law. But his probation was revoked and he was resentenced to 3-10 years in prison solely because of an article he wrote for a small Chicago newspaper. Quoting a passage from the Bible, Rev. Pinkney predicted that God would “curse” the judge unless he “hearken[ed] unto the voice of the Lord thy God to observe [and] to do all that is right.” Rev. Pinkney also expressed his opinion in the article that the judge was racist, dumb, and corrupt.

In its ruling today, the Court of Appeals said that the trial court’s probation condition that prohibited “defamatory and demeaning” communications is unconstitutional.

“To the extent that the prohibition of defamatory and demeaning behavior impinges on defendant’s first amendment rights,” wrote the judges, “the prohibition was not proper, as it was not directly related to defendant’s rehabilitation or to the protection of the public.”

The ACLU of Michigan represented Rev. Edward Pinkney’s first amendment claims; however, the organization was not involved in the underlying voter fraud conviction, which was upheld today. Due to this conviction, Rev. Pinkney’s probation will be reinstated.

Rev. Pinkney is a Baptist minister in Benton Harbor, a predominantly African American community with a troubled relationship with its predominantly white sister city, St. Joseph. Rev. Pinkney has long been an outspoken community activist and advocate, frequently denouncing injustice and racial inequality in Benton Harbor, its local government, and the Berrien County criminal justice system in particular.

In March, three friend-of-the-court briefs were submitted in support of the ACLU position – one from a diverse coalition of more than a dozen national and religious organizations including the National Association of Evangelicals, the American Jewish Congress, the Christian Legal Society and the Baptist Joint Committee for Religious Liberty; one from 18 law professors from all five Michigan law schools; and one from the Thomas Jefferson Center for Freedom of Expression.

In addition to Steinberg, Rev. Pinkney is represented by ACLU staff attorney Dan Korobkin, and ACLU Cooperating Attorneys James J. Walsh and Rebecca O’Reilly of the law firm Bodman LLP. Walsh argued the case in the Court of Appeals.

To read the Michigan Court of Appeals decision, go to:
<http://www.aclumich.org/sites/default/files/file/pinkneydecision.pdf>.

To read the religious organizations’ amicus brief, go to:
<http://aclumich.org/sites/default/files/file/religiousfreedomamicusbrief.pdf>.

To read the law professors’ amicus brief, go to:
<http://aclumich.org/sites/default/files/file/professorsamicus.pdf>.

To read the Thomas Jefferson Center for the Protection of Free Expression’s amicus brief, go to:
<http://aclumich.org/sites/default/files/file/thomasjeffersonamicusbrief.pdf>.

To read the ACLU’s merits brief in Rev. Pinkney’s appeal, go to:
<http://aclumich.org/sites/default/files/file/pinkneymeritsbrief.pdf>.

To read Rev. Pinkney’s article, go to: <http://www.peopletribune.org/PT.2007.11/PT.2007.11.18.html>