

## Bush's faith-based initiative listing but not sunk

by *Bill Berkowitz*

In early April, officials in Bradford County, Pennsylvania, agreed to bar any public funding of religious activities as part of a settlement in a lawsuit challenging a local "faith-based" ministry for prisoners. The lawsuit, filed in 2005 by Americans United for Separation of Church and State, the American Civil Liberties Union (ACLU) of Pennsylvania, and the national law firm of Arnold & Porter LLP, argued that Bradford County and other governmental agencies were unconstitutionally funding The Firm Foundation, a religion-based rehabilitation program active in the Bradford County jail. In mid-February, the 8th U.S. Circuit Court of Appeals heard arguments in the "Americans United v. Prison Fellowship Ministry" case at the federal courthouse in St. Louis, Missouri. According to an Americans United press release, the organization, representing a group of inmates, inmates' family members and taxpayers, urged the appellate panel to affirm the June 2006 ruling by Judge Robert W. Pratt that the InnerChange Freedom Initiative at Newton Correctional Facility in Iowa is unconstitutional and violates the separation of church and state. In his ruling, Judge Pratt "found that the publicly funded religious program at Newton transgresses the First Amendment ban on government support for religion." "No American should be pressured by the government to conform to any particular religious viewpoint," said the executive director of Americans United, the Rev. Barry W. Lynn, an ordained minister in the United Church of Christ. "Inmates should have access to effective rehabilitation programs that prepare them for life outside prison, no matter what religion they subscribe to. This case has major implications for the Bush 'faith-based' initiative. Programs that are pervaded with religion should not get public funds," he said. Although neither the Bradford agreement nor the Iowa case will likely reach the U.S. Supreme Court soon, sometime before its upcoming summer recess, the Court will hand down a ruling that could significantly shape the future of President George W. Bush's faith-based initiative. The much trumpeted program, intended by Team Bush to be the centrepiece of his domestic policy agenda, has been taking its fair share of political and legal hits during the past few years. case will likely reach the U.S. Supreme Court soon, sometime before its upcoming summer recess, the Court will hand down a ruling that could significantly shape the future of President George W. Bush's faith-based initiative. The much trumpeted program, intended by Team Bush to be the centrepiece of his domestic policy agenda, has been taking its fair share of political and legal hits during the past few years. Nevertheless, the administration has steadfastly pushed forward with the initiative by providing several billion in federal grants to religious organizations, offering grant-writing technical assistance to religious groups, establishing faith-based operations in nearly every major federal government agency, and spreading its influence to dozens of states. In late February, two and a half years after the Madison, Wisconsin-based Freedom from Religion Foundation (FFRF) filed its federal lawsuit challenging the creation of various religion-based offices at federal agencies, the case arrived at the Supreme Court, albeit in a curtailed form. The Court heard oral arguments in the "Hein v. Freedom From Religion Foundation" case. Jay F. Hein is the current head of the White House Office of Faith-Based and Community Initiatives. FFRF bases its case on the assertion that the establishment of faith-based offices by the Bush administration violated the First Amendment and that the actions of those offices caused further violations by holding a series of events aimed at helping religious groups win tax support. While this case will not decide the constitutionality of the faith-based initiative, the court will decide whether FFRF has the right to sue in the first place. In January 2001, when President Bush issued executive orders establishing the White House Office on Faith-Based and Community Initiatives, he intended it to be a major step towards reducing the government's role in providing social services to the poor and needy. But even prior to the Bush administration, a number of high-profile religious organizations received government money to provide social services to the poor. The process of bringing religious organizations into the mix was accelerated in 1996 when then President Bill Clinton signed welfare reform legislation that included a "charitable choice" provision, which allowed individual states to work with faith-based and community charities to provide a broader array of social services. "Under the public radar, federal, state, and local governments are funding, training, and even helping to create religious social service organizations," the influential National Journal reported earlier this year. These days, despite these and other legal actions by civil liberties groups; former

faith-based official David Kuo's unsparing account in his bestselling book, "Tempting Faith: An Inside Story of Political Seduction," of the politicization of the initiative; and serial changes in leadership at the White House Office, the president's initiative continues to move along -- but has slowed considerably. During its six years of existence, in lieu of being able to achieve any comprehensive faith-based legislation in Congress in support of it, President Bush has taken to using executive orders to push the initiative forward. More than two billion dollars in federal funding has been doled out to religious organizations for services as extensive as alcohol and drug related treatment programs, "abstinence-only" sex education projects, job training efforts, and "healthy marriage" proposals. In addition, federal, state, and local governments have embarked on a broad campaign to recruit, train, and assist religious charities in writing grant applications, creating non-profit entities, training volunteers and building an infrastructure that would qualify for government grants. "For faith groups interested in government partnerships, and for everyone interested in the issues of church and state, these are heady times," Richard Nathan, director of the Roundtable on Religion and Social Welfare Policy, said at conference in Washington. "Whether and where the lines can be drawn to separate religious activity from that which can be supported by public funds is complicated, subtle, and very much -- especially right now -- very much in flux." One of author David Kuo's criticisms of the White House's handling of the faith-based initiative was that it didn't follow through on its promise to provide eight billion dollars to religious organizations. The White House, however, claims that "faith-based organizations can now compete for about 20 billion dollars a year in federally managed programs, and another 55 billion dollars or so in programs managed by state and local governments," according to the National Journal. Greg Morris, director of the Center for Faith-Based and Community Initiatives at the federal Department of Health and Human Services, told the magazine that "direct federal grants to faith-based organisations represent 'a relatively small piece of federal dollars that go out.'" He noted that "The biggest piece of the pie is those formula block grants that go out from the federal government to the states, and then there is wide latitude at the state and local level to administrate those funds." Regardless of how the Supreme Court rules on *Hein v. Freedom From Religion Foundation*, the battle over government funds going to religious organizations will continue for years to come. While the President Bush may have failed to legislatively institutionalize his faith-based initiative, it has become a major part of the U.S. political and social landscape. Whether Democrats will try to rearrange that landscape remains to be seen.

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