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April 8, 2020

VIA E-MAIL- editor@polkcountytoday.com

Editor
Polk County Today

Re: Request, Appeal, and Legal Demand to rescind Executive Order 2020-038 (COVID-19) signed on March 25, 2020.

Dear Editor:

On March 25, 2020, Constitutional County Judge Sydney Murphy issued an Executive Order (2020-038) to Polk County citizens to Stay at Home. On April 2, 2020, Judge Murphy extended the order until April 30, 2020. As a citizen and as an attorney, I am compelled to speak out. Lawyers stand between the citizen and tyranny. As our founding fathers told us to do in the Declaration of Independence “

That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.”- Declaration of Independence, July 4, 1776.

We as citizens must resist, “alter, and abolish” even our own government when they violate the Constitution of the United States, as Judge Murphy is doing now. While I also am concerned for the health and safety of my family, and my community, Judge Murphy’s Executive Order is unconstitutional! It violates every citizen's rights to peaceably assemble, and freely exercise their religious beliefs, in violation of the 1st and 14th Amendments of the United States Constitution. Worse still, Murphy’s Executive Order discriminates against religion and treats religious worship, citizens who desire to worship, and local churches very differently than all other individuals, businesses, and organizations. Further still Murphy’s Order “establishes” a preference and encouragement for “non-religious” activities over “religious” activities, resulting in government establishment of secularism as the preferred religion of the state and for its citizens.

Even before Murphy’s Executive Order 2020-038 was issued, my local church voluntarily began streaming services online for those in our congregation who desired to have that option available to them; however, my church did not close our doors to anyone who appeared and

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wanted to worship God with us. We did employ several preventative measures that were recommended by experts, such as hand sanitizers at each entrance and throughout the church. We also provided disinfectant wipes, discouraged the shaking of hands, and encouraged "social distancing". A "Women's Conference" which had been advertised and planned for over a year, which is typically attended by hundreds of women annually, was also voluntarily canceled by the church. My local church took all these measures voluntarily and unilaterally, to be good community citizens and to be a valued community partner, despite there being no recorded COVID-19 cases in Polk County at that time. Jesus's last words spoken on this earth were that we (Christians), as His disciples, were to go into all the world and proclaim the gospel, the good news of salvation through Jesus Christ and the promise of healing and provision through obedience to Christ. I and other Christians are compelled by our faith to worship our God by spreading the good news of Jesus and His work, praying for the sick and believing for their recovery, and ministering hope to the hurting and the scared.

The 1st Amendment to the U.S. Constitution reads, "Congress shall make **no law** respecting an **establishment of religion, or prohibiting the free exercise thereof**; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

Judge Murphy's Executive Order acknowledges this free exercise of our religion but later in her order creates ambiguity and vagueness by arbitrarily restricting who can attend church (only 10 staff), the number of persons who can attend church and for makes other specifications as to the parameters of attendance, allowing staff to attend in a limited capacity while other citizens are prevented from assembling at all. Judge Murphy's Order dictates to citizens and churches **where and how (online only)** citizens are allowed to worship, **all of which are illegal for the government to do under the first amendment of the U.S. Constitution**. To make matters worse these same restrictions are applied exclusively to churches and religious organizations but not to **any other business, entity, or public gathering** described in Murphy's Executive Order. This is blatant **religious discrimination** which is **forbidden under the Constitution** and laws of the United States and Texas.

My church's sanctuary measures approximately 90 feet by 75 feet. Allowing for 6 feet minimum distance between persons occupying this space, the mathematics can be calculated in different ways, but certainly, there is much more room available than for only the 10 people specified in Judge Murphy's order. While it may have been unintentional, or not well thought out, this 10-person limit set by Murphy's government is arbitrary, capricious, and is not "narrowly tailored" to be minimally invasive to fundamental religious liberty that Murphy's own order acknowledges but then improperly outlaws religious liberty.

Paragraph 1.(e) of Judge Murphy's Executive Order, as written, violates the U. S. Constitution, Amendments 1, and 14, by placing limitations on **who may physically attend worship services**. It is, therefore, an impermissible government prohibition of the citizens of Polk County's constitutional right to the **freedom of assembly, freedom of association, and the free exercise of religion**. Polk County citizens are not permitted by Murphy's order to exercise their religious belief of gathering together and praying one for another in a group for no reason other than Murphy's order. But for Murphy's Order, our large church building could safely hold 250, or more and still maintain a minimum 6 foot "social distance" between each person. Additionally, the

church I attend has a staff, and necessary volunteer staff, which exceeds the 10-person limit specified in Murphy's order. The number of 10 persons in Murphy's order is "arbitrary" and "capricious" **and bears no "rational basis," much less a "compelling state interest" to the goals of the government which is supposedly the prevention of the spread of COVID-19.** Neither is such a number supported by the prevailing scientific data. Again, I remind you that Murphy's order applies these restrictions **only to churches and faith-based organizations** and not to **any other business or category of people** described in Murphy's order, this is **blatant discrimination** based on **religion** and a **violation of the Equal Protection Clause** of the U.S. Constitution. Murphy's Order is religious persecution!

According to the Center for Disease Control (CDC's) Guideline: Implementation of Mitigation Strategies for Communities with Local COVID-19 Transmission, Table 2, Page 7, potential mitigation activities are directed to be "according to the level of community transmission or impact of COVID-19" and are to be scaled according to three categories: 1) "None to Minimal" confirmed cases; 2) "Minimal to moderate" number of confirmed cases; 3) "Substantial number" of confirmed cases. According to the CDC, and Texas Department of State Health Services, Polk County did not have a single confirmed case of COVID-19 at the time Murphy issued her order. Therefore, Murphy's order was not in accordance with the CDC's guidelines and not reasonably related to any reliable empirical data. As of the writing of this letter, there are only four confirmed cases of COVID-19 in Polk County, and that was not reported until after Murphy's order went into effect. Even with these four recently confirmed cases, Polk County falls into the "None to Minimal" category of the CDC's guidelines and still does not rise to the level which would necessitate an order such as the one Murphy has issued.

Furthermore, Murphy's order that churches, religious organizations, and their members are required to meet "online" is also "arbitrary" "capricious" and assumes that all congregations have the technological ability to broadcast their services and that all adherents have online access to such "online" services. Paragraph 1.(e) is also unconstitutional because Murphy's government directs and places specific limits on how citizens may exercise their religious beliefs, and restricts the church from exercising its liberty interest in choosing where and how the church conducts its religious services, the holy sacraments, and rites. Any citizen of Polk County who is not a member of the staff of a church is not permitted by Murphy's Executive Order **to attend and participate in church services**. Murphy's Executive Order impermissibly dictates how a church may conduct its services, i.e., "online" only. If a local church does not have the capabilities to broadcast its services online, then Murphy's order says those citizens may not attend church. Murphy's order unreasonably and illegally interferes with the Church and Polk County citizens' right to the "free exercise of religion." All such persons who do not have "online" access are prohibited by Judge Murphy's illegal order from the free exercise of their religion by attending church, participating in the holy sacraments and participating in other religious rites, regardless of the protective measures the churches have put in place to protect its members and participants.

Additionally, Murphy's illegal order, as written, discriminates against citizens' free exercise of the right to "peaceably assemble" and exercise their constitutional right to the free exercise of religion by assembling and participating religious worship services. Citizens of Polk County who desire to exercise their constitutional right to "peaceably assemble" and their right to the "free exercise of their religion" are treated differently than citizens who do not desire to attend worship services but instead desire to go to the "liquor store." They are free to purchase liquor; they are

not free to assemble and worship God, the same God in whom we the community profess to trust (according to the back of our law enforcement vehicles, money, etc.). Any number of people can be in Wal-Mart but no citizen can be in their church on Sunday. WAKE UP AMERICA!

Also, illegal is paragraph (c) of Murphy's government order which prohibits "All" public or private gatherings of "any number" of people "occurring outside a single household" but not "outside" a single liquor store, gas station, grocery store, dentist office, pharmacy, banks, hardware store, or bicycle repair shop, Churches are prevented from having more than 10 staff on the premises of the church but liquor stores, grocery stores, tire shops are not restricted to just 10 staff, this unequal application of the restriction on assembly also violates the equal protection clause of the 14th Amendment to the U. S. Constitution and is therefore illegal.

Also illegal is Murphy's government intrusion into religion by its determination that a citizen engaged in or desiring to engage in their constitutionally protected right to worship is "**not essential**" and thus is an impermissible advancement and "establishment" of "secularism" as the preferred religion of Polk County; which is impermissible for the government to do; it is illegal interference and discrimination against the "free exercise of religion."

It is noteworthy that Texas Governor Abbot specifically left churches and faith-based organizations out of his executive order. When asked about it later he replied that "There was nothing specific in the executive order about churches because there is freedom of religion here in the United States of America."¹ Governor Abbott went on to say that most churches are providing online services, alternative services, or seating situations that ensure the safety of their congregations. Also, noteworthy is that according to the New York Times newspaper² and Kxan.com³, out of the 254 counties in Texas only 51 have issued "Stay at Home" orders. Of those 51; only 19 go so far as Murphy to regulate the number of staff who may serve in a church. Even in Texas's largest city, Houston, Harris County Judge Hidalgo's order does not restrict the number of staff which can serve a church congregation. Although Judge Hidalgo's order is also unconstitutional in that it **mandates how** citizens **may** exercise their constitutional right to exercise their religious worship it is noteworthy that Houston a city with 254 cases of confirmed COVID-19⁴ has not taken the extreme and outrageous steps that our own Judge Sydney Murphy has.

Murphy's unconstitutional order made "in the abundance of caution" is not in reasonable relationship to the actual and severe harm of citizens being prohibited from exercising their

¹ <https://www.kxan.com/news/gov-abbott-freedom-of-religion-means-churches-not-in-covid-19-order-but-many-making-changes/>

² <https://www.nytimes.com/interactive/2020/us/coronavirus-stay-at-home-order.html>

³ <https://www.kxan.com/news/coronavirus/heres-which-texas-cities-and-counties-have-issued-stay-at-home-orders/>

⁴ <http://publichealth.harriscountytexas.gov/Resources/2019-Novel-Coronavirus/Harris-County-COVID-19-Confirmed-Cases>

Letter to Editor

Re: Judge Sydney Murphy's Executive Order 2020-038

April 8, 2020

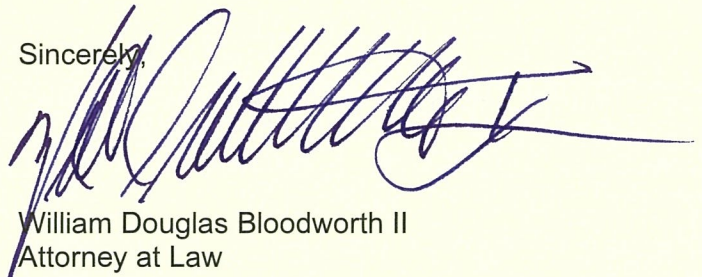
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constitutional right to the free exercise of religion which is prohibited under Murphy's illegal and unconstitutional order. Understanding that there are a host of reasonable "accommodations" and "safety procedures" which have been, and could be, employed by church congregations, Murphy's illegal order overreaches, is too broad, and by its terms. The order is arbitrary and capricious in its application to the citizens of Polk County. While I can understand and appreciate Murphy's desire to protect the citizens of Polk County, it should be done equally, fairly, and without discrimination.

I have communicated these objections to Judge Murphy in a letter emailed, faxed, and hand-delivered to her locked office asking that she rescind, amend, or modify the objectionable parts of her order, and did not receive a response. As a newspaper editor, you know and understand the importance of the constitutional right to a free press(which incidentally is also in the First Amendment). I believe that the freedom to worship God, how, and when we choose is also a sacred right that should not be violated. Therefore, I have written this letter to communicate to the citizens my grave concerns with Murphy's violations of the Constitutional rights of the citizens she swore an oath to defend and protect. I call on the citizens of this county to demand that Judge Murphy rescind her unconstitutional and illegal Executive Order. I and my law firm stand ready, willing, and able to defend any Christian citizen, pastor, or church congregation arrested or issued a citation for attending church, pro bono without charge.

Who would have known that in our lifetime we would see the church doors of the United States of America locked, not by a conquering army, not by the communists, not at the end of a gun, but by the stroke of a pen, at the hand of one of our own elected officials? We have met the enemy, and they are us.

Sincerely,

A handwritten signature in blue ink, appearing to read "William Douglas Bloodworth II". The signature is stylized and cursive, with a long horizontal stroke extending to the right.

William Douglas Bloodworth II
Attorney at Law

WDB/dlb

attachments/enclosures:

- 1) CDC Guidelines-(Interim Guidance for Administrators and Leaders of Community- and Faith-Based Organizations to Plan, Prepare, and Respond to Coronavirus Disease 2019.
- 2) U.S. Constitution, Amendment 1 and 14.

cc: file