



April 21, 2025

The Honorable Dr. Jeannette Sanchez-Palacios
Mayor of the City of Ventura – District 4
City of Ventura
501 Poli Street
Ventura, CA 93001

Mr. Javan N. Rad
City Attorney
City of Ventura, City Attorney's Office
P.O. Box 99
Ventura, CA 93002

Sent via U.S. mail and email

Re: Ventura's unconstitutional ban on prayer in council meetings

Dear Mayor Sanchez-Palacios and Mr. Rad:

First Liberty Institute is a nationwide nonprofit law firm dedicated to defending religious liberty for all Americans. We represent Tarin Swain, one of your residents who recently tried to participate in a City Council Meeting. She contacted our office after City Council members wrongly censored her religious expression during her allocated public comment time at the meeting. Please direct all future communications regarding this matter to us.

Factual Background

On March 18, 2025, the Ventura City Council hosted a City Council Closed Session/Regular Meeting in the City Council Chambers.¹ Among other matters, the council took up item number 15 on the agenda entitled "Policy Consideration - The Community Autonomy, Rights, and Equity (CARE) Policy." The policy entertained by the City Council purports to protect "reproductive rights, immigrant residents, gender-diverse individuals and all residents of the City of Ventura from restrictive laws and external enforcement affairs."²

Concerned about the implications of the policy, Mrs. Swain attended the March 18 meeting and signed up to give a public comment on item 15—along with over 130 other attendees. Each speaker was granted one minute at the podium.

¹ A recording of the March 18, 2025 City Council Meeting is available online at: https://www.youtube.com/watch?v=_n1EsuyoEI8&t=716s.

² https://www.cityofventura.ca.gov/AgendaCenter/ViewFile/Agenda/_03182025-3362.

As Mrs. Swain, a devout Christian, approached the podium, she was compelled by religious conviction to use part of her allotted time to pray. She had prepared a speech, but bound to her conscience, she began to pray. Many attendees reacted poorly to the prayer and began booing, hissing, and screaming at her. Undeterred, Mrs. Swain kept praying. She hoped the City Council would reprimand the individuals who tried to disrupt her prayer, but Mayor Sanchez-Palacios told Mrs. Swain to stop her prayer instead. As the mayor explained “We [the City of Ventura] don’t do prayer.” Following this warning, Mrs. Swain wrapped up her prayer and public comment. Notably, the council did not halt any speech other than Mrs. Swain’s prayer. The council even allowed one of the public commenters to squawk through a bird puppet uninterrupted. Only prayer was censored.

Legal Analysis

Censoring and prohibiting a private speaker’s prayer during her allotted public comment time violates constitutional rights and federal law. The ban on prayer deprived Mrs. Swain of her fundamental freedoms, namely, free speech and free exercise of religion.

The First Amendment to the U.S. Constitution provides, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech.” These clauses “work in tandem. Where the Free Exercise Clause protects religious exercises, whether communicative or not, the Free Speech Clause provides overlapping protection for expressive religious activities.” *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 523 (2022). The double protection afforded religious speech is by design —“a natural outgrowth of the framers’ distrust of government attempts to regulate religion and suppress dissent.” *Id.* at 524 (citing *A Memorial and Remonstrance Against Religious Assessments*, in *Selected Writings of James Madison* 21, 25 (R. Ketcham ed. 2006)). Mrs. Swain’s prayer during her allotted public comment time falls squarely under the protection of both clauses. In short, it is “doubly protect[ed].” *Id.* at 523.

“When the government encourages diverse expression—say, by creating a forum for debate—the First Amendment prevents it from discriminating against speakers based on their viewpoints.” *Shurtleff v. City of Boston*, 596 U.S. 243, 247 (2022); *see also Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 828 (1995) (“It is axiomatic that the government may not regulate speech based on its substantive content or the message it conveys.”). To exclude religious perspectives from such a forum “constitutes impermissible viewpoint discrimination.” *Shurtleff*, 596 U.S. at 258 (quoting *Good News Club v. Milford Central Sch.*, 533 U.S. 98, 112 (2001)); *Rosenberger*, 515 U.S. at 831. This is true even if the government fears that others may disagree with or be offended by the religious activity. The Supreme Court has observed:

Respect for religious expressions is indispensable to life in a free and diverse Republic Here, a government entity sought to punish an individual for engaging in a . . . personal religious observance doubly protected by the Free Exercise and Free Speech Clauses of the First Amendment. And the only

meaningful justification the government offered for its reprisal rested on a mistaken view that it has a duty to ferret out and suppress religious observances even as it allows comparable secular speech. The Constitution neither mandates nor tolerates that kind of discrimination.

Kennedy, 597 U.S. at 543. The U.S. Constitution further prohibits governmental actions that target religious exercise for disfavored treatment, like a prohibition on private prayer. *See Kennedy*, 597 U.S. at 525–26. The California Constitution, likewise, protects citizens’ free expression and religious exercise. *See Cal. Const.*, art. I, § 4.³

As a result, prohibiting Mrs. Swain—or any other citizen—from praying or otherwise expressing their religious perspective during the public comment period in this fashion is patently unconstitutional religious and viewpoint discrimination. To the extent the City of Ventura is concerned private prayers during public comments would violate the Establishment Clause, it is mistaken. The Establishment Clause “applies only to the words and acts of *government*.” *Capitol Square Rev. & Advisory Bd. v. Pinette*, 515 U.S. 753, 767 (1995). “It was never meant . . . to serve as an impediment to purely *private* religious speech connected to the State only through its occurrence in a public forum.” *Id.* “When a government does not speak for itself, it may not exclude speech based on ‘religious viewpoint’; doing so ‘constitutes impermissible viewpoint discrimination.’” *Shurtleff*, 596 U.S. at 258 (citation omitted).

Private citizens speak on their own behalf, not on behalf of the government. Therefore, the rules that govern the prayer practices of legislative bodies do not apply to citizens’ public comments.⁴ Any concerns about observers believing the City Council has “endorsed” prayers would also be misplaced, as the Supreme Court no longer considers the appearance of endorsement in evaluating Establishment Clause claims. *See Kennedy*, 597 U.S. at 532–35. The Establishment Clause is not violated merely because a government entity permits private religious expression or speech. *See id.* at 535–36.

Additionally, the prospect of onlooker offense doesn’t justify censorship. “Where the designed benefit of a content-based restriction is to shield the sensibilities of listeners, the general rule is that the right of expression prevails.” *U.S. v. Playboy Entertainment Group, Inc.*, 529 U.S. 803, 813 (2000); *see also Matal v. Tam*, 582 U.S. 218, 250 (Kennedy, J., concurring) (“The Government may not insulate a law from charges of viewpoint discrimination by tying censorship to the reaction of a speaker’s audience.”). Ultimately, “[a] government entity’s concerns about phantom constitutional violations do

³ “Free exercise and enjoyment of religion without discrimination or preference are guaranteed. This liberty of conscience does not excuse acts that are licentious or inconsistent with the peace or safety of the State. The Legislature shall make no law respecting an establishment of religion.” *Cal. Const.*, art. I, § 4.

⁴ It is also worth noting that the traditional practice of legislative prayer is generally constitutional. *See generally Marsh v. Chambers*, 463 U.S. 783 (1983); *Town of Greece v. Galloway*, 572 U.S. 525 (2014).

not justify actual violations of an individual's First Amendment rights." *Kennedy*, 597 U.S. at 543 (citation omitted).⁵

During the meeting, many speakers were allowed to present their viewpoints through various means of expression, from signs depicting aborted and dismembered fetuses to gesturing the sign of the cross to the interpretation of a bird puppet's squawks. But Mrs. Swain's comment was stopped because it was channeled through prayer, evincing religious hostility. While many speakers with opposing viewpoints were allowed to offer religious comments, Ms. Swain's prayer was forbidden since in *Ventura*, "[w]e don't do prayer." The City's policy banning private prayer during public comments at council meetings is unconstitutional.

Conclusion

The prayer ban enforced against Mrs. Swain was a violation of her constitutional and federal statutory rights, entitling her to relief. To correct the wrong that occurred, we respectfully demand the City do the following:

1. Issue a public apology to Mrs. Swain for infringing on her religious exercise and speech. This apology should be read at the next public meeting or published on the city's website, or both;
2. Repeal the City's policy banning prayer during public comments at council meetings;
3. Provide written assurance that you will allow speakers at the podium to engage in prayer;
4. Provide written assurance that Mrs. Swain be allowed to finish her interrupted prayer at the next meeting, with her full allotted time restored, with no interruptions unless Mrs. Swain violates a neutral rule applied to everyone;
5. Give First Amendment training to the entire city council and staff, focused on religious exercise and free speech in public forums;
6. Pay Mrs. Swain nominal damages in the amount of \$1 in recognition of the violation of Mrs. Swain's constitutional and federal statutory rights; and
7. Provide written assurance that the City of Ventura will not retaliate against Mrs. Swain for exercising her rights or sending this letter, including but not limited to, written assurance that the City of Ventura will not ban Mrs. Swain from future meetings.

Please confirm that you agree to these requests on or by May 6, 2025.

⁵ The Establishment Clause does not "compel the government to purge from the public sphere anything an objective observer could reasonably infer endorses or partakes of the religious." *Kennedy*, 597 U.S. at 535 (internal quotations omitted).

Sincerely,



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[REDACTED]
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cc: Doug Halter, Deputy Mayor – District 2, [REDACTED]
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Rryn Schumacher, Councilmember – District 3,
[REDACTED]
Bill McReynolds, Councilmember – District 5,
[REDACTED]
Jim Duran, Councilmember – District 6, [REDACTED]
Alex Mangone, Councilmember – District 7, [REDACTED]
Tarin Swain, [REDACTED]