

With the Help of Average Americans We Are Challenging the Enemies of Free Speech—and Winning!

- **FREE EXPRESSION FOUNDATION** is making progress on multiple battle fronts

By Merlin Miller

While a cadet at West Point and later as an Army officer, I aspired to live up to West Point's motto: Honor, Duty, Country. As a board member of the FREE EXPRESSION FOUNDATION (FEF), I and everyone affiliated with FEF have tried to live up to a similarly idealistic three-part motto: principle, courage, compassion. Here is what I mean: Principle—to defend fundamental values of free expression and association, especially against powerful radical left organizations, media, and magnates. Courage—to take up unpopular causes even at risk of financial, social, or physical harm. And compassion—to seek out and help those who find themselves isolated, unprotected, and often impoverished due to their attempts to exercise their rights of free speech and association.

In this update, I will show you that FEF is making solid progress in achieving its core values. It is beyond question that First Amendment freedoms are under concerted attack today. Formidable as these oppressive forces may be, effective action can be taken against them, and FEF has been doing so.

FEF can point to many achievements during the last year . . .

Amicus Curiae Briefs in The Rise Above Movement Prosecutions. FEF has filed three *amicus curiae* (Friend of the Court) briefs in the Rise Above Movement (RAM) prosecutions and is preparing a fourth. The RAM cases are two separate federal prosecutions under the Anti-Riot Act, one in Virginia and one in California, of young men who were members of the Rise Above Movement and who attended the Charlottesville demonstrations in Virginia or pro-Trump rallies in California. The reality is this: These young men did nothing more than engage in a few scuffles provoked by violent antifa and yet they are serving (in the Virginia prosecution) or facing (in the California prosecution) prison sentences of three years or more—while no antifa have ever been charged. The federal prose-



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cutors' vehicle for these political prosecutions is the Anti-Riot Act, a flagrantly unconstitutional and rarely used statute. In California, FEF's amicus brief helped persuade Judge Carney to strike down the Anti-Riot Act and order the release of the California RAM defendants. The government has now appealed the case to the Ninth Circuit, for which FEF is preparing another amicus brief. In Virginia, the trial refused to strike down the act and the defendants, still incarcerated, have appealed to the Fourth Circuit. FEF has filed two amicus briefs challenging the constitutionality of the Act, and attended oral argument, in that appeal.

Although these Anti-Riot Act cases have received little attention from the mainstream media, they are critically important to preserving the rights of persons to attend demonstrations. Unless the act is stricken, organizations such as antifa can shut down any demonstration they don't like merely by provoking scuffles and giving the government a pretext to selectively prosecute dissident right protestors. Even now, these prosecutions are having a chilling effect on classic First Amendment activities. FEF intends to take

Author and former presidential candidate Merlin Miller is the vice president of the FREE EXPRESSION FOUNDATION (FEF). In the accompanying report he details some of the successes of FEF but also urges you to donate what you can so FEF is able to help more people in need.

these cases to the Supreme Court if necessary.

Allen v. Beirich, Potok, and the SPLC. FEF has provided support to Glen Allen in his litigation against Heidi Beirich, Mark Potok, and the Southern Poverty Law Center. Allen's complaint describes in detail the SPLC's sordid history as a sham 501c3 nonprofit, when in fact it is a fundraising scam that uses illegal actions, lies, and defamation to destroy its political opponents and advance its leftist agenda. The trial court, in a cursory opinion that failed to address the important issues Allen raised, dismissed his complaint. With FEF's financial support, Allen has appealed to the Fourth Circuit. Like the RAM cases, *Allen v. SPLC* is vitally important in pushing back against the radical left's ruthless and lawless tactics.

Balogh and Conte v. City of Charlottesville, Virginia, et al. FEF has provided financial support for plaintiffs Warren Balogh and Gregory Conte in their lawsuit against the City of Charlottesville, Charlottesville's police department, and many other bad actors. The mainstream media have given such distorted accounts of the Charlottesville demonstrations that few people realize that the pro-monument demonstrators properly obtained a permit for their demonstration and that the Charlottesville governmental authorities were well aware antifa and other counterprotestors were planning to attend and create violent conflict. The Charlottesville authorities, accordingly, had legal obligations to take reasonable steps to separate the hostile camps of protestors. They egregiously failed to do so; they not only failed to act reasonably but deliberately encouraged the violence that ensued, using it as a pretext for shutting down the demonstration. Balogh and Conte were injured because of the Charlottesville authorities' gross incompetence and deliberate malfeasance. Unable to find

A Message of Thanks

I would like to thank FREE EXPRESSION FOUNDATION for the generous donation and legal support they have given to us and for all of their support for us in this time of need. Thanks to FEF, we will be able to visit our son Jake Goodwin. We live in Arkansas and he is incarcerated in Virginia. It is a 14-hour drive to be able to see him and visit with him. Because of your kindness we will be able to visit our son again in the summer. My family would like to express our gratitude for all that you have done us.

—SCOTT GOODWIN

Virginia counsel, Balogh and Conte are proceeding pro se. FEF has provided them a small financial grant—limited in accordance with FEF’s limited resources—in support of their courageous effort to hold the Charlottesville authorities accountable.

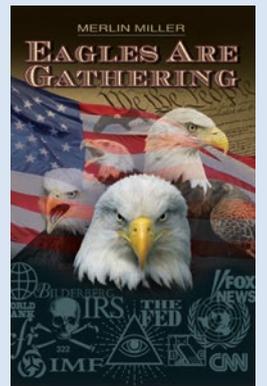
Nelsen v. the SPLC. This lawsuit stems from an attempt by Craig Nelsen, once homeless himself, to help homeless men by starting a boxing club and drug treatment program in Lexington, Missouri. Nelsen described the club on its website as “designed to address the specific challenges unique to white males in the United States” but open to “men in distress of any race.” In January 2018, the SPLC published an article on its “Hatewatch blog” claiming that “Nelsen . . . claimed the club is open to all races, but he isn’t convincing anyone.” The SPLC’s article caused the termination of Nelsen’s plan to help homeless men by means of the boxing club. Nelsen has strong evidence his proposed club was in fact open to men of any race, so he sued the SPLC for defamation. Remarkably, even though Nelsen is proceeding pro se, his complaint has thus far survived a motion to dismiss. FEF, acting again within the limits of its resources, has provided a

small grant to Mr. Nelsen so that he may keep his fight for justice going.

Jacob Goodwin and His Parents. Jacob Goodwin attended the Charlottesville demonstrations as a pro-monument demonstrator. At some point in the melee, Goodwin, along with other persons, kicked a counterprotestor several times. He should not have done this. But the sentence he received after a subsequent prosecution—eight years in prison in Virginia—was grossly disproportionate, given that the counterprotestor had struck a man near Goodwin with a metal flashlight and Goodwin had no prior record of bad conduct. It seems apparent Goodwin was sentenced more for his political views than his misconduct. It has been a financial challenge for Goodwin’s working class and devoutly Christian parents in Arkansas to visit their son—so much so that on the rare occasions when they can afford to visit they drive all night to avoid the expense of a hotel. FEF has given the Goodwins a small grant so they may visit their son more frequently and have reasonable accommodations when doing so.

Donate \$75 and get *Eagles Are Gathering* FREE

By former presidential candidate Merlin Miller. This is the story of one American’s journey from rural Iowa to West Point to Hollywood and back again in search of the American dream—a dream all Americans once held in common and expected to achieve in their lifetimes. But something happened along the way. For far too many Americans, this dream has slipped through their fingers due to no fault of their own. But what can the average American do? Contained here are the answers found on Miller’s amazing life journey. This is a book that can change people’s minds and inspire them to fight for a better America. If you read just one man’s life account this year, make it this one. Also contains commonsense things we can do to help protect our freedom, especially in these trying times. Merlin Miller’s life story is the story of a true American patriot. Softcover, 241 pages. Regularly sells for \$20 plus \$4 S&H, but this book can be yours free when you donate \$75 or more to the FREE EXPRESSION FOUNDATION using the form below or by calling FEF’s fulfillment partner, AMERICAN FREE PRESS, at 202-544-5977, Mon.-Th. 9-5 ET. All donations tax-deductible.



As this non-exhaustive list shows, FEF has been active. With your support, it will continue to be active—increasingly so. There is much that, together, we can and must do. Although our rights of free expression and association are, as our nation’s founders eloquently expressed, God-given, nonetheless they must be earned, by commitment, effort, and initiative.

Thank you for joining FEF in this endeavor. ★

How to Donate to FEF:

Please send check, cash or money order made out to FREE EXPRESSION FOUNDATION (or just FEF) to P.O. Box 1479, Upper Marlboro, MD 20773. NOTE: Your donations to FREE EXPRESSION FOUNDATION INC. are considered tax-deductible to the fullest extent of the law. Our IRS EIN number is 82-5147337. This is necessary should you want to write off your donation on your taxes.

Questions? Call 202-544-5977.

Support FEF’s efforts on behalf of Free Speech. We’re making progress in this important battle.

YES! I want to support the efforts of the Free Expression Foundation. Currently we are supporting an important case against the SPLC for abusing its status as a 501(c)(3) nonprofit organization and for violating the Racketeering Influenced and Corrupt Organizations Act. In this case, the SPLC used admittedly stolen documents from a controversial organization to smear donors and improperly used its power and resources. The SPLC is blatantly trying to impose Soviet-style thought control on America. Let’s fight back legally and peacefully!

NOTE: Those who donate \$75 or more will receive a FREE copy of Merlin Miller’s *Eagles Are Gathering*, an important book for activists.

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NOTE: AMERICAN FREE PRESS endorses the efforts of FEF!