

Free Speech Group Files Brief in Support of Jailed Protesters

By Glen Allen, Esq.

The board of directors of the FREE EXPRESSION FOUNDATION (FEF) has asked that I explain the nature and importance of the *amicus curiae* brief that I, with a colleague, prepared and filed on behalf of FEF in the Fourth Circuit Court of Appeals in October in the *United States v. Miselis, et al.* case. It is my pleasure to do so.

Let me first describe the nature of an *amicus curiae* brief. “*Amicus curiae*” is a Latin term for “friend of the court.” An *amicus curiae* is someone who is not a party to a case, and who may or may not have been solicited by a party, who assists a court by offering information or legal arguments, typically presented in a brief, that bear on important matters presented in the case. *Amicus* briefs should not merely repeat arguments made by the parties but should bring to the court’s attention issues the parties may have not addressed or fully developed. *Amicus* briefs require either the consent of all the parties or the approval of the court.

The *amicus* brief FEF filed in October 2019 in the *Miselis* case fulfilled the proper function of such a brief. The momentous question before the court of appeals is the constitutionality of the Anti-Riot Act, under which three young members of the Rise Above Movement have been prosecuted and sentenced to several years in prison for their alleged involvement in the 2017 Charlottesville rallies. The defense coun-

sels’ briefs developed their arguments that the Anti-Riot Act is unconstitutionally vague and overbroad. FEF, however, saw a need to address other facets of the act not addressed by defense counsel.

One of these was how American society has changed since the act was hastily passed into law in 1968. As FEF’s brief states:

The expansion of the internet and credit facilities have expanded the reach of the act into the mobile telephones in students’ backpacks and the home computer in nearly every home. A statute intended to curb outside agitators who wished to incite riots now reaches nearly all citizens as they go about their ordinary daily activities.

A second point FEF addressed involves the level of scrutiny a court should apply to its review of the act. The trial court had held that the act is content neutral and therefore not subject to exacting scrutiny. FEF contended to the contrary:

The act is in fact not content neutral but disfavors a critically important kind of speech: the kind that arouses fervid emotions and spurs people to organize demonstrations and counter-demonstrations, to travel sometimes considerable distances to those demonstrations, and to confront their adversaries in person.

Strict scrutiny of the act, FEF contended, is therefore required.

A third argument FEF presented is that the act violates the Hecklers’ Veto Doctrine, i.e., the doctrine articulated by the Supreme Court that



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Defenders of free thought, free speech, and free expression.

listeners’ violent reactions to protected speech cannot be a basis for suppressing the speech. The government’s use of the Anti-Riot Act, FEF argues, gives enormous and illicit power to groups such as antifa to intimidate persons from attending controversial demonstrations.

Oral argument will probably be set in this important case in early 2020. It is unusual for *amicus* to be allowed to participate in oral argument, but I have nonetheless requested that I be allowed to participate. All persons concerned about free expression, especially free expression in demonstrations on controversial issues, should follow this case closely.

Note that FEF’s arguments in a California case helped sway a judge’s ruling that the Anti-Riot Act is unconstitutional. We hope to convince the judge in this “Charlottesville” case to see things the same way, though only time will tell if he will see reason or be swayed by pressure by political correctness or the rule of law. ★

Glen Allen is an attorney in Maryland. Last year, Allen filed a lawsuit against the Southern Poverty Law Center alleging that the radical left-wing organization, which is valued at over \$450 million, targeted him in a smear campaign for the purpose of destroying his reputation and career. He is currently awaiting news from the court on when his case will proceed.

Free Speech Isn’t Free: We Must Fight for It!

By Glen Allen, Esq.

There are overlapping networks of power in America today, run by savvy, active, unprincipled, ruthless people who give lip service to our robust free speech traditions but whose real aim is to prevent honest debate on controversial topics. Their *modus operandi* is to destroy those who dissent from the views they approve. They are highly skilled in crushing anyone who steps outside the narrow lines they draw. I know. I’m one of their victims—one of their many victims.

On Aug. 17, 2016, the Southern Poverty Law Center (SPLC) published a distorted “Hatewatch” article about me and made it a news story in dozens of newspapers around the country. Within two days I lost my job, my reputation was destroyed, and I became a pariah in the city and legal community. The fact that I had worked zeal-

ously and ethically in my law practice and for the City of Baltimore was of no interest to the SPLC. Why would the SPLC care about such things? Its goal was to destroy a political nonconformist.

As it happened, about the time the SPLC attacked me, I had been reading a book that contained a Russian immigrant’s account of her life under the old Soviet regime. As I read that account again, I winced. Here is her account:

I look at the people who support the transformation of America in disbelief: They are destroying the very land that gave them so much opportunity. In the USSR, representatives of the Communist Party . . . were ingrained into every aspect of civilian, official, and military life. These political organizers controlled public order by observing the behavior and speech of every citizen. People who wanted a more secure and privileged life found it necessary to join the propaganda machine. In order to survive, citizens were silent out of fear of retaliation by the authorities.

I winced because I felt I was reading a description of what life is becoming here in America under the growing domination of thought control networks like the SPLC. I shook my head. Could this really be happening in America?

But it *is* happening, with ever-growing intensity. The critical question is: What shall we do about it? As Patrick Henry asked, shall we “lie supinely on our backs until our enemies have bound us hand and foot”? . . . [I]f we wish to be free, if we mean to reserve those inestimable privileges for which we have been so long contending, if we mean not basely to abandon the noble struggle in which we have so long been engaged . . . we must fight!”

I say we fight back. With your support, the FREE EXPRESSION FOUNDATION, INC. can be an effective means for doing so. Let’s not lie supinely on our backs but stand tall on our feet, and fight. Please give your most generous donation today using the form on the facing page. ★

Battling for Our Freedom of Expression

By Charles Randolph Sheppard

As I reflect on the one-year anniversary of the FREE EXPRESSION FOUNDATION's entry into the arena of First Amendment advocacy, I must first express my heartfelt gratitude to those who have answered the call to support FEF's endeavors. It takes a leap of faith to take a stand with a fledgling organization such as FEF. You have made that leap with moral and financial support, and I salute you.

I want you to know your support has brought results. FEF, operating on a shoestring budget and in a difficult environment for the cause of Free Expression, can point to significant achievements in its short life:

- FEF filed an *amicus* brief, over the government's opposition, in California in opposition to the federal government's prosecution of Rise Above Movement members under the Anti-Riot Act. As FEF, together with defense counsel, urged, the federal district court struck down the Anti-Riot Act as unconstitutional. The court's written opinion reflects the influence of FEF's arguments. This was a major victory affecting the future ability of protesters of all stripes to cross state lines to peacefully protest or support contentious issues.

- FEF also filed an *amicus* brief in the Fourth Circuit Court of Appeals in Richmond, Virginia, challenging here as well the constitutionality of the Anti-Riot Act. Glen Allen, the attorney FEF engaged to prepare its *amicus* brief, provides a more detailed description of FEF's *amicus* brief in an article on the facing page.

- FEF is providing support to Attorney Glen Allen in his lawsuit against the Southern Poverty Law Center (SPLC). After Mr. Allen filed his de-

Matching Grants from Two Generous Donors!

FREE EXPRESSION FOUNDATION (FEF) is in need of operating funds, and we will gladly accept your sincere donations of any amount—none of which is too small. At this time, all of our officers are volunteers, accepting no pay for their efforts. However, there are legal expenses that cannot be avoided when fighting for a person's rights in court. FEF is lucky to have two donors who have agreed to make matching grants for the first two \$1,000 donations that are received by FEF. Use the form below and send your donation of any size made out to FEF to P.O. Box 1479, Upper Marlboro, MD 20773. For those who can, please consider making a tax-deductible \$1,000 (or more) donation and save on your 2019 taxes.

tailed complaint against the SPLC in federal court, which among other claims challenges the SPLC's 501(c)(3) status, the SPLC moved to dismiss. Mr. Allen vigorously opposed the motion. Although briefing on the SPLC's motion was completed in April 2019, the court has yet to rule.

No doubt, many of the actions of the SPLC detailed in the lawsuit are disturbing to the court, though the SPLC has an unfounded reputation as a champion of rights for African-Americans and women. Note that multiple reports in AMERICAN FREE PRESS over the last several years have exposed the SPLC as a money-making racket whose chief officers oversaw a toxic work environment for the very people the SPLC alleges it wants to help. AFP has also detailed actions by

SPLC co-founder Morris Dees that have betrayed the high-minded ideals of the SPLC.

- FEF continues to provide moral and legal support to many other persons who have contacted FEF for legal advice, including a group of "Overpass Warriors" who wish to post banners of a political nature on certain highway overpasses but have been denied that right, we believe because their signs are not in congruence with the politically correct narrative that rules free expression in this age.

FEF has momentum and is developing credibility. We need to build on this encouraging beginning, but it takes financial support to achieve this. In this regard, I am delighted to announce that thanks to generous donors, every donation FEF receives prior to Nov. 15 will be matched dollar for dollar up to \$2,000. Please remember that FEF is a 501(c)(3) nonprofit organization, and all donations to it are tax deductible in accordance with law. So now is a great time to double your impact!

One of the premises on which FEF's mission rests is that First Amendment freedoms are fragile and currently face novel and formidable perils. New means of censorship, such as deplatforming, doxxing, and cyber-harassment, have combined with age-old types of censorship, such as hectoring and ill-advised legislation, to create an atmosphere in which citizens have become fearful to speak their minds. At the same time, organizations that have traditionally defended unpopular viewpoints, such as the American Civil Liberties Union, are retreating from the First Amendment arena.

FEF is not retreating but advancing. Please stand with us as we move forward.

In the cause of liberty, thank you. ★

Charles Randolph Sheppard is an attorney in Georgia and is the vice chairman of the Free Expression Foundation.

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 \$100 or more will receive a FREE copy of Glen's Amicus Brief filed on behalf of the Charlottesville Defendants.

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NOTE: AMERICAN FREE PRESS endorses the efforts of FEF!