



Written by [Joe Wolverton, II, J.D.](#) on August 28, 2013

## Fed Judge Declares Anti-Gay Sermon a “Crime Against Humanity”

A federal judge ruled that a biblically based denunciation of homosexuality was a “crime against humanity.”

In his decision in the case of *Sexual Minorities Uganda (SMUG) v. Lively*, U.S. District Court Judge Michael Ponsor held that Scott Lively, an evangelical pastor, was “aiding and abetting a crime against humanity” when Lively spoke in Uganda and in America against homosexual behavior.



[Ponsor wrote in his 79-page opinion](#) that Lively’s message was “analogous to a terrorist designing and manufacturing a bomb in this country, which he then mails to Uganda with the intent that it explode there.”

The plaintiff in the case is a consortium of groups based in Kampala, Uganda that fight for “fair and equal treatment of lesbian, gay, bisexual, transgender, and intersex (LGBTI) people” in the East Africa region.

Ponsor says that Lively, by publishing tracts and delivering discourses condemning same-sex relationships, was acting as “an upper-level manager or leader of a criminal enterprise.”

While in Uganda, Lively praised local pastors working to fight the proliferation of sexual activity between those of the same gender, basing his remarks on his interpretation of the Bible’s condemnation of such behavior.

“I’ve never done anything in Uganda except preach the Gospel and speak my opinion about the homosexual issue,” Lively told the *New York Times*.

Reading between the lines, it becomes apparent that the “criminal enterprise” in which Ponsor found Lively engaged was that of believing, preaching, and promoting Judeo-Christian morality in an age that glorifies ungodliness and exalts satisfaction of appetites above the sacrifice of self to the will of God.

Ponsor, a 1994 Clinton appointee, calls Lively’s Ugandan hosts “co-conspirators” in Lively’s violations of “international norms.”

Harry Mihet, Lively’s lawyer, responded to Ponsor’s decision to allow the case against his client to proceed.

We are disappointed with the decision because we believe SMUG’s claims are firmly foreclosed, not only by the First Amendment right to free speech, but also by the Supreme Court’s recent decision in *Kiobel*, which eliminated Alien Tort Statute claims for events that allegedly occurred in foreign nations. We are still reviewing the court’s ruling, and will continue to vigorously defend Mr. Lively’s constitutional rights, with confidence that he will ultimately be vindicated.

Mihet’s comments were echoed by Mat Staver, founder of Liberty Council, the organization representing Lively. “Like all American citizens, Lively enjoys a fundamental First Amendment right to



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engage in nonviolent political discourse anywhere in the world,” Staver said.

Beyond the de jure banning of biblical morality by a Bill Clinton appointee, there is another curious political connection in the persecution of Pastor Lively.

SMUG is represented in its suit against Lively by the [Center for Constitutional Rights \(CCR\)](#). CCR receives [substantial financial support](#) from George Soros’s Open Society Institute and the Ford Foundation. It should come as no surprise that these groups would be the money behind an attack on the First Amendment, the Bible, the freedom to exercise religion, and the freedom to express those beliefs in the public forum.

There are serious First Amendment implications in Ponsor’s ruling, should it be upheld on appeal.

Among other protections, [the First Amendment](#) forbids the federal government from making any law “prohibiting the free exercise” of religion. Ponsor’s comparison of the expression of religious beliefs with terrorism would convert federal tort statutes (in this case, the Alien Tort Statute) into forceful fetters on the right of Americans to share their faith.

Furthermore, beyond the obliterations of all barriers to belief provided by the First Amendment, Ponsor’s ruling would welcome into the federal courts groups determined to subject Christianity and Christians to the will of progressive and irreligious judges.

Chilling speech — religious or political — is a dangerous gambit for the establishment, but one that pays off handsomely when it works. Perhaps that is why judges, lawmakers, and presidents continue pursuing that path.

In [a blog post](#), one writer reminded readers of several recent attempts by politicians to portray thoughts as threats:

We’ve seen this type of leftist logic before, and it’s not surprising that it came from a judge who was supported for the bench by John Kerry and Ted Kennedy and appointed by Bill Clinton. Soon after Timothy McVeigh bombed the Alfred P. Murrah federal building in Oklahoma City in April of 1995, some on the left of the political spectrum blamed “anti-government rhetoric” for the assault. Supposedly “hateful” speech directed at politicians had incited a cadre of “right-wing” extremists to put words into explosive action.

A similar blame-game tactic was tried by then Sen. Tom Daschle (D-SD) after the loss of the Senate to the Republicans in the 2002 mid-term elections. He blamed “talk radio,” and compared American “fundamentalists” to Islamic extremists. He claimed that critical talk about certain politicians and their policies could lead to a hostile environment that could spur people to violent acts. Daschle offered no empirical evidence to back up his claim.

On the 15th anniversary of the Oklahoma City bombing, former President Clinton once again tried to make the connection between speech and domestic terrorism.

The following is the reaction from a *New York Post* editorial: “[Clinton drew] implicit parallels between bomber Timothy McVeigh and peaceful — if rambunctious — political dissent like the Tea Party movement.... Like we said: shameless.”

Beyond that recitation of recent recriminations of unpopular speech, there is contemporary movement to categorize those in the liberty movement as “extremists” and “domestic terrorists” and to portray men and women of faith as “fundamentalists” on par with those who have committed mass murder and attributed those atrocities to Islam.



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There is another element of Judge Ponsor's ruling that reveals the hypocrisy of the ruling class in Washington.

In [a statement published on the CCR website](#), Frank Mugisha, director of SMUG, said, "Today's ruling is a significant victory for human rights everywhere but most especially for LGBTI Ugandans who are seeking accountability from those orchestrating our persecution."

One wonders if Mugisha will be as zealous in his quest for accountability when it comes to those "orchestrating" the death of millions of unborn human beings.

Further along those same lines, Ponsor associates Lively's anti-homosexual stance with crimes against humanity. What, though, of the judicial green light given to the sanctioned murder of millions of babies via legal abortions? Is the indisputable killing of innocents not more closely connected to genocide than speaking against behavior one believes to be sinful? Certainly, but to deem abortion genocide would be unthinkable for most federal judges and their legislative counterparts in the federal government.

In fact, it isn't just the failure to condemn abortion that is the essence of the issue; it is the self-congratulating celebration of it that marks the lack of limits to the hypocrisy.

Take, for example, the glitterati's aggrandizement of Texas State Senator Wendy Davis after she filibustered in support of late-term abortion. Not only did the world toss laurel wreaths at her feet, it published glossy praise of her efforts in the pages of magazines.

[Vogue's report on Davis'](#) defense of killing babies offered no condemnation; rather it read like a red carpet review of her sartorial sense:

Wearing pink Mizuno running shoes and a sky-blue Escada day coat concealing a back brace, the 50-year-old runner and cyclist held the floor for a twelve-hour filibuster that packed the rotunda with pro-choice defenders and had the nation biting its collective nails as coverage streamed online and the clock ticked down to midnight. In those hours, Davis's Facebook likes spiked. The hashtag #StandWithWendy began trending as high as some 125,000 tweets per hour. Barack Obama used it. Lena Dunham tweeted her support. John Oliver made a joke about a new line of shoes, the Filabusters, the next night on *The Daily Show*.

The lesson learned by comparing the prosecution and persecution of Scott Lively with the star treatment lavished on late-term abortion proponent Wendy Davis is that the federal government considers speech subject to restriction when that speech doesn't square with the secular, irreligious, and immoral zeitgeist.

*Joe A. Wolverton, II, J.D. is a correspondent for The New American and travels frequently nationwide speaking on topics of nullification, the NDAA, and the surveillance state. He can be reached at [jwolverton@thenewamerican.com](mailto:jwolverton@thenewamerican.com)*



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