

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PASTOR LEVON YUILLE,

Plaintiff,

No. 2:12-cv-14652

v

HON. GERALD E. ROSEN

BILL SCHUETTE, in his official capacity
as Attorney General, State of Michigan;
and BRIAN L. MACKIE, in his official
capacity as Prosecuting Attorney,
Washtenaw County, Michigan,

MAG. MARK A. RANDON

Defendants.

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**PROPOSED AMICUS BRIEF OF BILL SCHUETTE
(IN HIS INDIVIDUAL CAPACITY) REGARDING THE
CONSTITUTIONALITY OF MICH. COMP. LAW § 168.931(1)(e)**

INTRODUCTION AND STATEMENT

Bill Schuette files this *amicus curiae* brief, in his individual capacity only, to clarify his personal position regarding the constitutionality of Mich. Comp. Law § 168.931(1)(e). In his official capacity as the Attorney General, Bill Schuette is responsible for prosecuting and upholding the laws of the State of Michigan; accordingly, the Attorney General's office has responded to this lawsuit and urged the Court to uphold as constitutional a very narrow construction of § 931(1)(e). But in his individual capacity, it is clear to Bill Schuette that § 931(1)(e) is vague, overbroad, and unconstitutional.

For more than 100 years, § 931(1)(e) has purported to single out pastors, ministers, priests, rabbis, and other religious officials for criminal prosecution if they attempt to even “advise” their flocks how to vote “at an election.” There have apparently been no past or pending prosecutions seeking to enforce the provision's restrictions (see Defs.' Br., pp. 3-4 & Exs. 4, 5, & 6 thereto) and with good reason—the statute violates long-established principles of free speech and religious liberty under the First and Fourteenth Amendments to the U.S. Constitution. Among other things, § 931(1)(e) is not a neutral law of general applicability but specifically targets religious speakers and religious speech; substantially burdens political and religious speech as well as the free exercise of religion; and cannot be justified by any compelling governmental interest.

The Attorney General has consistently defended the right of Michigan citizens and organizations to exercise their First Amendment freedoms. At his direction, Michigan has joined six other states in challenging the recent Health and Human Services mandate that forces thousands of religious organizations and private-sector employers to violate their deepest religious beliefs by mandating what those organizations must include in their employee health-insurance plans.

The Attorney General also filed an *amicus* brief in *Hosanna-Tabor Evangelical Lutheran Church & School v. Equal Employment Opportunity Commission*, litigation in which the U.S. Supreme Court unanimously upheld the right of religious organizations to manage their religious employees without government interference.

The Attorney General also filed an *amicus* brief in support of Julea Ward, a former Eastern Michigan University student who is suing the university in federal court for violating her constitutional rights after she was dismissed from a graduate counseling program due to her religious beliefs.

Although the facts and context of this case are obviously different, the principles at stake are exactly the same. Accordingly, acting in his individual capacity, Bill Schuette urges this Court to uphold the rights of individuals and organizations to participate in the political process regardless of whether faith or religious principles animate the political positions for which they advocate.

Respectfully submitted,

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Dated: October 29, 2012