

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

PASTOR LEVON YUILLE,

Plaintiff,

v.

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,

Defendants.

Case No.

COMPLAINT

[Civil Rights Action under 42 U.S.C. §
1983]

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Plaintiff Levon Yuille (hereinafter “Pastor Yuille” or “Plaintiff”), by and through his undersigned counsel, brings this Complaint against the above-named Defendants, their employees, agents, and successors in office, and in support thereof alleges the following upon information and belief:

INTRODUCTION

1. This case seeks to protect and vindicate fundamental constitutional rights. It is a civil rights action brought under the First and Fourteenth Amendments to the United States

Constitution and 42 U.S.C. § 1983, challenging the constitutionality of MCL § 168.931(1)(e), a Michigan criminal law that proscribes protected speech, discriminates against religion, and substantially burdens religious beliefs.

2. Plaintiff seeks a declaration that MCL § 168.931(1)(e) violates his clearly established constitutional rights as set forth in this Complaint and a permanent injunction enjoining its enforcement. Plaintiff also seeks an award of his reasonable costs of litigation, including attorneys' fees and expenses, pursuant to 42 U.S.C. § 1988 and other applicable law.

JURISDICTION AND VENUE

3. This action arises under the Constitution and laws of the United States. Jurisdiction is conferred on this court pursuant to 28 U.S.C. §§ 1331 and 1343.

4. Plaintiff's claims for declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 and 2202, by Rules 57 and 65 of the Federal Rules of Civil Procedure, and by the general legal and equitable powers of this court.

5. Venue is proper under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this district.

PLAINTIFF

6. Pastor Yuille is an adult citizen of the United States, a resident of the State of Michigan, and a devout Christian. Pastor Yuille is the pastor of The Bible Church, which is located in Ypsilanti, Michigan. Pastor Yuille is also the National Director of the National Black Pro-Life Congress, the former Chairman of the Michigan Black Republican Council of Southern Michigan, and the host of *Joshua's Trail*, a radio talk show that airs in Washtenaw County, Michigan and elsewhere.

DEFENDANTS

7. Defendant Bill Schuette is the Attorney General of the State of Michigan. As the Attorney General, Defendant Schuette is responsible for prosecuting the laws of the State of Michigan, and he is responsible for supervising the work of, counseling and advising the prosecuting attorneys, including Defendant Mackie, in all matters pertaining to the duties of their office. Defendant Schuette is sued in his official capacity only.

8. Defendant Brian L. Mackie is the Prosecuting Attorney for Washtenaw County, which is a charter county existing under the laws of the State of Michigan. In his capacity as Prosecuting Attorney, Defendant Mackie is responsible for prosecuting all felonies and misdemeanors charged under Michigan law, including violations of MCL § 168.931(1)(e). Defendant Mackie is sued in his official capacity only.

STATEMENT OF FACTS

9. Pursuant to MCL § 168.931, “A person who violates 1 or more of [its] subdivisions is guilty of a misdemeanor.” Subdivision (1)(e) states as follows: “A priest, pastor, curate, or other officer of a religious society shall not for the purpose of influencing a voter at an election, impose or threaten to impose upon the voter a penalty of excommunication, dismissal, or expulsion, or command or advise the voter, under pain of religious disapproval.” A copy of MCL § 168.931 is attached to this Complaint as Exhibit 1.

10. Anyone who violates MCL § 168.931(1)(e) “is guilty of a misdemeanor” and subject to a fine and/or imprisonment.

11. Pastor Yuille is the pastor and spiritual leader of The Bible Church, which is located in Washtenaw County, Michigan.

12. Pastor Yuille is a minister with a strong desire to bring people back to the Bible by teaching God's pure and unadulterated Word.

13. Pastor Yuille believes that the Church is the body of Christ.

14. Pastor Yuille believes that when a person acts contrary to God's Word, the person risks separating himself or herself from the body of Christ.

15. Pastor Yuille believes that excommunication occurs when a person separates himself or herself from the body of Christ.

16. Pursuant to his sincerely held religious beliefs, Pastor Yuille believes, professes, and advises that abortion and gay marriage are gravely immoral and contrary to God's Word. Pastor Yuille expresses his beliefs publicly and privately, including when he is speaking to potential voters, including potential voters who are members of his church.

17. Pursuant to his sincerely held religious beliefs, Pastor Yuille believes, professes, and advises that it is a grave sin for a politician to support abortion and gay marriage. Pastor Yuille expresses his beliefs publicly and privately, including when he is speaking to potential voters, including potential voters who are members of his church.

18. Pursuant to his sincerely held religious beliefs, Pastor Yuille believes, professes, and advises that it is a grave sin for a Christian to knowingly vote for a politician that publicly supports abortion and gay marriage. Pastor Yuille expresses his beliefs publicly and privately, including when he is speaking to potential voters, including potential voters who are members of his church.

19. Pastor Yuille believes, professes, and advises that it is a grave sin for a Christian to vote for a candidate such as President Barack Obama, who publicly supports abortion and gay

marriage. Pastor Yuille expresses his beliefs publicly and privately, including when he is speaking to potential voters, including potential voters who are members of his church.

20. Pastor Yuille believes, professes, and advises that when a Christian knowingly votes for a politician who publicly supports abortion and gay marriage, the voter becomes a partner in the sin and his or her soul is in danger of eternal damnation. As a result, the voter is separating himself or herself from the body of Christ. Pastor Yuille expresses his beliefs publicly and privately, including when he is speaking to potential voters, including potential voters who are members of his church.

21. As a result of the upcoming presidential election scheduled for November 6, 2012, Pastor Yuille is compelled by his sincerely held religious beliefs to influence voters to vote consistent with their Christian faith and to advise and inform them that to do otherwise is contrary to God's Word, it is a sin, it is looked upon with religious disapproval, and it could endanger their soul and separate them from the body of Christ.

22. Pursuant to his sincerely held religious beliefs, Pastor Yuille advises voters, including those voters who are members of his church, that to vote for a candidate that publicly supports abortion and gay marriage, such as President Barack Obama, is to act contrary to God's Word, it is a grave sin, it is looked upon with religious disapproval, and it could endanger their soul and separate them from the body of Christ.

23. As a result of his sincerely held religious beliefs and his desire to express those beliefs publicly, Pastor Yuille is a pastor, who, for the purpose of influencing a voter at an election, including those voters who are members of his church, advises the voter, under pain of religious disapproval and the potential for suffering separation from the body of Christ, to vote consistent with God's Word.

24. By professing his sincerely held religious beliefs and advising voters pursuant to these beliefs, Pastor Yuille is violating MCL § 168.931(1)(e) and is thus subject to criminal prosecution.

25. MCL § 168.931(1)(e) has a chilling effect on Pastor Yuille's speech in that it criminalizes his speech.

26. MCL § 168.931(1)(e) substantially burdens Pastor Yuille's religious beliefs and his right to the free exercise of religion.

27. MCL § 168.931(1)(e) is not a neutral law of general applicability because it targets religion and religious speech and practices for discriminatory and disfavored treatment.

28. MCL § 168.931(1)(e) is not justified by a compelling governmental interest.

29. MCL § 168.931(1)(e) is not the least restrictive means of advancing a compelling governmental interest.

30. In light of the upcoming presidential election scheduled for November 6, 2012, Pastor Yuille wants to profess his sincerely held religious beliefs and advise voters, particularly those voters who are members of his church, pursuant to those beliefs to vote consistent with God's Word so as to avoid religious disapproval and suffering separation from the body of Christ. However, Pastor Yuille is prohibited from doing so under MCL § 168.931(1)(e).

FIRST CLAIM FOR RELIEF

(Freedom of Speech—First Amendment)

31. Plaintiff hereby incorporates by reference all stated paragraphs.

32. MCL § 168.931(1)(e), facially and as applied to Plaintiff's religious speech, deprives Plaintiff of his right to freedom of speech in violation of the First Amendment as

applied to the states and their political subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

33. As a direct and proximate result of the violation of Plaintiff's First Amendment right to freedom of speech, Plaintiff has suffered irreparable harm, including the loss of his fundamental constitutional rights, entitling him to declaratory and injunctive relief.

SECOND CLAIM FOR RELIEF

(Free Exercise of Religion—First Amendment)

34. Plaintiff hereby incorporates by reference all stated paragraphs.

35. MCL § 168.931(1)(e), facially and as applied to Plaintiff, substantially burdens Plaintiff's religious beliefs in violation of the Free Exercise Clause of the First Amendment as applied to the states and their political subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

36. Plaintiff's expressive activity as set forth in this Complaint is protected by both the Free Speech Clause and the Free Exercise Clause of the First Amendment.

37. Plaintiff's religious beliefs as set forth in this Complaint are sincerely held.

38. MCL § 168.931(1)(e) substantially burdens Plaintiff's religious beliefs.

39. MCL § 168.931(1)(e) is not a neutral law of general applicability because it targets religion and religious speech and practices for discriminatory and disfavored treatment.

40. MCL § 168.931(1)(e) is not justified by a compelling governmental interest.

41. MCL § 168.931(1)(e) is not the least restrictive means of advancing a compelling governmental interest.

42. MCL § 168.931(1)(e) targets pastors, such as Plaintiff, for selective, discriminatory, and disfavored treatment because of Plaintiff's religious beliefs and expressive activity in violation of the Free Exercise Clause of the First Amendment.

43. As a direct and proximate result of the violation of Plaintiff's First Amendment right to the free exercise of religion, Plaintiff has suffered irreparable harm, including the loss of his fundamental constitutional rights, entitling him to declaratory and injunctive relief.

THIRD CLAIM FOR RELIEF

(Equal Protection—Fourteenth Amendment)

44. Plaintiff hereby incorporates by reference all stated paragraphs.

45. MCL § 168.931(1)(e), facially and as applied to Plaintiff, deprives Plaintiff of the equal protection of the law guaranteed under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

46. MCL § 168.931(1)(e) targets religious speech, beliefs, and practices for discriminatory and disfavored treatment in violation of the Equal Protection Clause of the Fourteenth Amendment.

47. MCL § 168.931(1)(e) permits secular speech that would have the purpose of influencing a voter at an election, but disfavors religious speech that would have the same purpose in violation of the Equal Protection Clause of the Fourteenth Amendment.

48. MCL § 168.931(1)(e) invidiously discriminates against similarly situated individuals, and it discriminates in a manner that implicates fundamental rights in violation of the Equal Protection Clause of the Fourteenth Amendment.

49. As a direct and proximate result of the violation of Plaintiff's rights protected by the Equal Protection Clause of the Fourteenth Amendment, Plaintiff has suffered irreparable

harm, including the loss of his fundamental constitutional rights, entitling him to declaratory and injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks this court:

- A) to declare that MCL § 168.931(1)(e), facially and as applied to Plaintiff, violates the First and Fourteenth Amendments to the United States Constitution as set forth in this Complaint;
- B) to permanently enjoin MCL § 168.931(1)(e) as set forth in this Complaint;
- C) to award Plaintiff his reasonable attorney fees, costs, and expenses pursuant to 42 U.S.C. § 1988 and other applicable law;
- D) to grant such other and further relief as this court should find just and proper.

Respectfully submitted,

AMERICAN FREEDOM LAW CENTER

/s/ Robert J. Muise
Robert J. Muise, Esq. (P62849)

/s/ David Yerushalmi
David Yerushalmi, Esq.

EXHIBIT 1

MICHIGAN ELECTION LAW (EXCERPT)
Act 116 of 1954

168.931 Prohibited conduct; violation as misdemeanor; “valuable consideration” defined.

Sec. 931.

(1) A person who violates 1 or more of the following subdivisions is guilty of a misdemeanor:

(a) A person shall not, either directly or indirectly, give, lend, or promise valuable consideration, to or for any person, as an inducement to influence the manner of voting by a person relative to a candidate or ballot question, or as a reward for refraining from voting.

(b) A person shall not, either before, on, or after an election, for the person's own benefit or on behalf of any other person, receive, agree, or contract for valuable consideration for 1 or more of the following:

(i) Voting or agreeing to vote, or inducing or attempting to induce another to vote, at an election.

(ii) Refraining or agreeing to refrain, or inducing or attempting to induce another to refrain, from voting at an election.

(iii) Doing anything prohibited by this act.

(iv) Both distributing absent voter ballot applications to voters and receiving signed applications from voters for delivery to the appropriate clerk or assistant of the clerk. This subparagraph does not apply to an authorized election official.

(c) A person shall not solicit any valuable consideration from a candidate for nomination for, or election to, an office described in this act. This subdivision does not apply to requests for contributions of money by or to an authorized representative of the political party committee of the organization to which the candidate belongs. This subdivision does not apply to a regular business transaction between a candidate and any other person that is not intended for, or connected with, the securing of votes or the influencing of voters in connection with the nomination or election.

(d) A person shall not, either directly or indirectly, discharge or threaten to discharge an employee of the person for the purpose of influencing the employee's vote at an election.

(e) A priest, pastor, curate, or other officer of a religious society shall not for the purpose of influencing a voter at an election, impose or threaten to impose upon the voter a penalty of excommunication, dismissal, or expulsion, or command or advise the voter, under pain of religious disapproval.

(f) A person shall not hire a motor vehicle or other conveyance or cause the same to be done, for conveying voters, other than voters physically unable to walk, to an election.

(g) In a city, township, village, or school district that has a board of election commissioners authorized to appoint inspectors of election, an inspector of election, a clerk, or other election official who accepts an appointment as an inspector of election shall not fail to report at the polling place designated on election morning at the time specified by the board of election commissioners, unless excused as provided in this subdivision. A person who violates this subdivision is guilty of a misdemeanor,

punishable by a fine of not more than \$10.00 or imprisonment for not more than 10 days, or both. An inspector of election, clerk, or other election official who accepts an appointment as an inspector of election is excused for failing to report at the polling place on election day and is not subject to a fine or imprisonment under this subdivision if 1 or more of the following requirements are met:

(i) The inspector of election, clerk, or other election official notifies the board of election commissioners or other officers in charge of elections of his or her inability to serve at the time and place specified, 3 days or more before the election.

(ii) The inspector of election, clerk, or other election official is excused from duty by the board of election commissioners or other officers in charge of elections for cause shown.

(h) A person shall not willfully fail to perform a duty imposed upon that person by this act, or disobey a lawful instruction or order of the secretary of state as chief state election officer or of a board of county election commissioners, board of city election commissioners, or board of inspectors of election.

(i) A delegate or member of a convention shall not solicit a candidate for nomination before the convention for money, reward, position, place, preferment, or other valuable consideration in return for support by the delegate or member in the convention. A candidate or other person shall not promise or give to a delegate money, reward, position, place, preferment, or other valuable consideration in return for support by or vote of the delegate in the convention.

(j) A person elected to the office of delegate to a convention shall not accept or receive any money or other valuable consideration for his or her vote as a delegate.

(k) A person shall not, while the polls are open on an election day, solicit votes in a polling place or within 100 feet from an entrance to the building in which a polling place is located.

(l) A person shall not keep a room or building for the purpose, in whole or in part, of recording or registering bets or wagers, or of selling pools upon the result of a political nomination, appointment, or election. A person shall not wager property, money, or thing of value, or be the custodian of money, property, or thing of value, staked, wagered, or pledged upon the result of a political nomination, appointment, or election.

(m) A person shall not participate in a meeting or a portion of a meeting of more than 2 persons, other than the person's immediate family, at which an absent voter ballot is voted.

(n) A person, other than an authorized election official, shall not, either directly or indirectly, give, lend, or promise any valuable consideration to or for a person to induce that person to both distribute absent voter ballot applications to voters and receive signed absent voter ballot applications from voters for delivery to the appropriate clerk.

(2) A person who violates a provision of this act for which a penalty is not otherwise specifically provided in this act, is guilty of a misdemeanor.

(3) A person or a person's agent who knowingly makes, publishes, disseminates, circulates, or places before the public, or knowingly causes directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in this state, either orally or in writing, an assertion, representation, or statement of fact concerning a candidate for public office at an election in this state, that is false, deceptive, scurrilous, or malicious, without the true name of the author being subscribed to

the assertion, representation, or statement if written, or announced if unwritten, is guilty of a misdemeanor.

(4) As used in this section, “valuable consideration” includes, but is not limited to, money, property, a gift, a prize or chance for a prize, a fee, a loan, an office, a position, an appointment, or employment.