

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA**

UNITED STATES of America,
Plaintiff,

v.

**LANDOVER BAPTIST, INC.,
LANDOVER BAPTIST I, LTD.,
WEXLER OFFSHORE HOLDINGS,
P.L.L.C., et al,**
Defendants.

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C.A. 99-0152

ORDER

On the 25th day of May, 2001, the Court heard arguments on Defendants' Motion for Summary Judgment. After considering the motion, response, pleadings and evidence on file, the Court concludes that the motion should be granted. Just as the Boy Scouts of America have the right to exclude homosexuals based on the organization's moral beliefs, notwithstanding increased social tolerance of homosexuality, so, too, may Defendants exclude disabled persons from church facilities based on Defendants' moral and religious conviction that the disabled are inherently evil, regardless of whether such belief is held by society at large.

Factual and Procedural Background

This action was brought under the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.* (1993)("ADA"). The United States alleges that Defendants, who collectively own and operate Landover Baptist Church ("Landover") in the Township of Freehold, Iowa, violated the ADA by failing to provide adequate facilities for the disabled. In particular, the government cites 252 conditions at Landover which allegedly impede full access to the church by the disabled. Among these conditions are the following:

1. A spiral marble staircase leading to the pastor's pulpit, some 20 feet above ground level, in the main sanctuary with no elevator access for disabled pastors;
2. Multiple restrooms for both genders, fully equipped and with attendants, but with no railings or other provisions facilitating use by wheelchair-dependent users;
3. The absence of parking places near any of the campus buildings restricted to use by the disabled; and
4. A provision in the "Guest Policies" section of the document entitled, "Church Rules and Regulations" which states, "Cripples are not welcome. Leave all gimps and retards at home."

The United States notes that courts have uniformly found that each of these conditions violates the ADA's guarantee of equal accommodations for disabled individuals. *See, e.g., Marcano-Rivera v. Pueblo International, Inc.*, 232 F.3d 245, 257 (1st Cir. 2000)(parking); *Steger v. Franco, Inc.*, 228 F.3d 889, 894 (8th Cir. 2000)(restrooms); *Fox v. General Motors Corp.*, 247 F.3d 169, 178 (4th Cir. 2001)(hostile language).

Defendants do not deny the presence of conditions that impede church access to the disabled. In fact, they readily concede the absence of access, contending their religious faith forbids presence on church property of any person suffering from a disability of any kind. Thus, Defendants assert they have the right, under the First Amendment's guarantees of free exercise of religion and separation of church and state, to exclude the disabled, just as they would have the right to exclude others deemed unworthy of participation under church doctrine.

By way of example only, Defendants support their claim of religious freedom by noting that access to the pulpit need not be provided to the disabled because the Christian Holy Bible expressly forbids the disabled from serving as ministers:

Whosoever he be of thy seed in their generations that hath any blemish, let him not approach to offer the bread of his God. For whatsoever man he be that hath a blemish, he shall not approach: a blind man, or a lame, or he that hath a flat nose, or any thing superfluous, Or a man that is brokenfooted [sic], brokenhanded [sic], Or crookbackt [sic], or a dwarf, or that hath a blemish in his eye, or be scurvy, or scabbed, or hath his stones broken; No man that hath a blemish of the seed of Aaron the priest shall come nigh to offer the offerings of the Lord made by fire: he hath a blemish; he shall not come nigh to offer the bread of his God.

Leviticus 21:17-21, THE HOLY BIBLE (King James Version, 1611). Defendants also argue that a pastor's ascension up the spiral staircase serves a vital religious purpose in that it emulates the anaerobic workout involved in carrying a large wooden cross up a hill.

Defendants further contend that their faith forbids entry into the church perimeter by anyone disabled because the disabled are possessed by demons. In support, they cite numerous passages from the "New Testament" of their Bible in which Jesus Christ, the alleged Messiah or equivalent of God under their faith, purportedly cured people of disabilities by casting out the demons within their bodies. *See, e.g.,* Matthew 12:22, 17:15; Acts 19:12 in *Id.* Defendants justify their exclusion of the disabled based on their beliefs that demons are prone to leaping from one human body to another, or to inanimate objects such as toilet seats and undergarments.

Findings of Fact and Conclusions of Law

Based on the pleadings, only one disputed issue need be resolved: Whether the religious tenets cited by Defendants are genuinely held beliefs or a mere ruse designed to circumvent anti-discrimination legislation. At the outset, the Court recognizes that it has neither the authority nor competence to evaluate religious beliefs. The Establishment Clause of the First Amendment to the United States Constitution prohibits any governmental entity, including judicial actors, from judging the relative worth of religious tenets. Thus, the sole issue is whether the beliefs espoused by Defendants are sincerely held, notwithstanding how bizarre or repugnant they may appear to others.

The facts of this case closely parallel those of *Boy Scouts v. Dale*, 530 U.S. 640 (2000). In *Dale*, the U.S. Supreme Court held that the Boy Scouts of America, a private organization indoctrinating its members with religious morality, has the right to exclude homosexuals from its ranks based on its belief that homosexuality is an immoral act. The Court thus held that a New Jersey law prohibiting discrimination against homosexuals was unconstitutional to the extent it applied to private associations whose fundamental beliefs reject association with homosexuals. *Id.* at 656.

Similarly, in this case, any law which seeks to prohibit discrimination against the disabled is unconstitutional to the extent it is applied to a private organization whose fundamental beliefs, especially if those of a religious nature, demand rejection of such individuals. The Court concludes that Defendants have proven, as a matter of law, that their stated beliefs demand non-association with the disabled.

In addition to the numerous affidavits from pastors and deacons attesting to this, the verses cited above conclusively prove that a plausible construction of the Christian Bible is that God rejects those suffering from abnormalities and/or that disabilities are caused by demon possession. The fact that this may not be the interpretation of the cited verses this judge or many others would adopt is simply not relevant. Each person or organization is entitled to make its own inferences from religious texts. And the fact that Defendants' inference is based on the literal meaning of the words that appear makes it all the more obvious that Defendants sincerely believe as they claim. Pursuant to the First Amendment and their earnestly held religious beliefs, Defendants have the right to exclude the disabled, and any law mandating the contrary is unconstitutional as applied to Defendants' actions.

As an aside note, Defendants could have easily won summary judgment by relying on the ADA's express exemption of "religious organizations" from its mandates. *See* 42 U.S.C. § 12187. The U.S. Congress has decided that "religious organizations" are free to discriminate at will. Defendants declined to cite this provision, instead relying solely on Constitutional arguments. This was undoubtedly strategic, to prevent state and local entities from raising similar claims based on state or local ordinances or common law. Regardless of the nature of the law or the governmental level from which it emanates, any attempt to prohibit Defendants from excluding the disabled from their premises is no more Constitutional than a law prohibiting the Boy Scouts from excluding homosexuals from employment or membership.

CONCLUSION AND ORDER

For the reasons stated, the Court grants summary judgment in favor of Defendants and against Plaintiff on all its claims. Defendants are further awarded their costs. All other relief not expressly granted herein is hereby denied.

Signed this 25th day of June, 2001.



Presiding Judge