

DefendTheFamily.com Alert

Friends,

After prayer and careful consideration, I, and my courageous wife, have decided, with the help of our stalwart legal team at Liberty Counsel, to take the unusual step of appealing the dismissal of the SMUG v Lively lawsuit to the First Circuit Court of Appeals.

www.lc.org/newsroom/details/060817-pastor-lively-files-challenge-to-judges-prejudicial-language-1

We believe that action is necessary to purge the prejudicial ruling of Judge Ponsor's false and subjective assertion that the incidents in Uganda on which the suit is based (incidents by parties unknown to me that the record shows I had no part in) constitute crimes against humanity, lowering the standard for asserting such claims almost to nothing. While within US jurisprudence his statements might hopefully be recognized as mere editorializing and not legally binding, the same is not necessarily true in foreign and international courts where the ostensibly true (but actually false) statement "The United States Federal Court has ruled..." would severely undermine all Christian and morally conservative defendants charged with committing or even "inspiring" the type of garden variety civil rights abuses Judge Ponsor has said are now crimes against humanity.

To be clear, Judge Ponsor considers me guilty of the worst category of international crime for simply preaching the Biblical view against homosexuality and teaching about the history and tactics of the LGBT movement – because other people I never met or communicated with, including officials of an independent sovereign nation where homosexuality has always been illegal, might possibly have been indirectly influenced to be hostile toward homosexuals based on my comments, and then to commit, over a period of ten years, a handful of relatively minor civil rights abuses which I have publicly condemned. To be sure, Judge Ponsor's false narrative harms not only my name, but also potentially subjects me to further harassment and litigation in state, federal or international courts. But, beyond the harms perpetrated against me, Judge Ponsor's "ruling" can be used by SMUG and CCR to intimidate and punish fellow Christians who dare speak up for Biblical values. I cannot in good conscience countenance these harms.

In a Daily Beast interview, SMUG's lead attorney Pam Spees confessed that this is indeed their plan to use Judge Ponsor's ruling to punish me and others for speaking out against the "gay" agenda around the world.

"The precedent set in the ruling was significant, Spees said, in sending a deterrent message to Lively and other anti-LGBT activists like him... persecution on the basis of sexual orientation and gender identity is a crime against humanity under international law...one of most serious crimes in international law. In looking at the evidence produced, it showed that Lively aided and abetted persecution, and was trying to do so elsewhere around the world. It's just that he can't be held accountable here because of the ruling limiting the Court's jurisdiction--not that he didn't do it." "Spees said Lively, and others like him, could face prosecution in other countries where laws to prosecute him already existed. These factual findings go a long way in helping advocates in other countries build support for these kinds of claims...[T]his case and these findings have contributed something very significant to the understanding of international law."

The US federal judiciary is still the world's most respected legal authority and with this devious strategic maneuver Judge Ponsor – ideologically though not necessarily transactionally aligned with Spees' so-called Center for Constitutional Rights -- had audaciously hijacked that credibility to serve the global "gay" agenda with devastating implications for the cause of Christ around the world. The only way that can be stopped is for me to voluntarily return to the lion's den and appeal the very ruling that released me from the lawsuit. We now do so willingly, placing our trust in God that he will vindicate us.

Now for some background for those not familiar with the case and its dismissal

On June 5th Judge Michael Ponsor finally pulled the plug on the federal lawsuit under which I have chafed for five years and two months. Accused of "Crimes Against Humanity" for simply preaching against homosexuality – rationally and compassionately -- in Uganda in 2009, I was continually pilloried, harassed and maligned by leftist media and activist organizations around the world and characterized as a global agent of genocidal malice and intent. In 2014, the world's largest and most powerful homosexual advocacy

group, the Human Rights Campaign, designated me as public enemy #1 of the “gay” agenda around the world – a move I believe was designed to bolster the SMUG v Lively lawsuit.

My Motion for Summary Judgment killing the suit was finally granted on the grounds that the Supreme Court had severely restricted the obscure 1790s law under which it was filed, the Alien Tort Statute (ATS). That occurred four years earlier in 2013, and I recall that in open court that year Judge Ponsor advised the parties that he would not rule on my then-pending Motion to Dismiss until SCOTUS had ruled in that case, strongly implying that SMUG v Lively would be moot if they curbed the reach of the ATS. Yet, after the ATS was gutted, Judge Ponsor not only denied my motion in a terribly hostile and blatantly flawed opinion, but also opposed my subsequent effort to ask the First Circuit Court of Appeals to review his decision.

Because of that, I was forced to endure another four years of pain and suffering at the hands of my leftist persecutors, whom Judge Ponsor had granted a fishing expedition into all of my files, writings and other ministry activities to look for ways to harm me. That “discovery process” placed a huge financial burden on my ministry, but even more so on Liberty Counsel, which had taken on my defense pro-bono.

The emotional burden was worse. I was grilled for two days under oath in Manhattan by a hired-gun Boston trial attorney, and forced to spend weeks responding to document demands and written interrogatories, and had year after year to assist my attorneys in preparing and reviewing countless legal filings. I lived throughout the entire half-decade of legal persecution with the knowledge that the long process – if not stopped by the judge – would end with a jury trial in Massachusetts, the most pro-homosexual state in the union, where the potential jury pool had all been subjected to years of propaganda casting me as a social pariah. The specter of a media-driven show trial and the likelihood of a politically motivated adverse ruling, with potentially large compensatory and punitive damages plus millions in attorney fees – followed by decades of harassment as SMUG’s debtor – always loomed before me.

This was all on top of the regular burden of hate-mail, slander and dirty tricks that anyone faces who opposes the “gay” agenda with any degree of effectiveness. Think “cake-bakers, printers and

florists” and magnify the abuse they faced by several degrees of magnitude. My load of such things may be the heaviest of anyone in the U.S., though I’m pretty much used to it by now.

As a Christian pastor with deep trust in Jesus Christ, I willingly suffered all these things, praying always “Thy will, not my will, be done,” and recognized that I became a better man through that “refiner’s fire” of persecution. Still, pain of any kind is never easy to endure.

Then came June 5th. The case was dismissed and I was able to separate the sliver of good that I perceived Judge Ponsor did in finally following the law, from the great preponderance of malfeasance he perpetrated by NOT following the law four years ago and by issuing a ruling filled with animus toward me personally and legally indefensible conclusions about the law and facts of the case. I wrote to the journalist who interviewed me for the “Daily Beast” article:

“Like so many who embrace the “gay” cause as their own, Judge Ponsor lacks any sense of objectivity or fairness and has degraded himself and the federal judiciary with his sophomoric rhetoric and willingness to mischaracterize the facts to comport with a false political narrative.”

Over the past few days, my sense of relief from the dismissal has been replaced with the urgency of the danger posed by Judge Ponsor’s ruling to me and to Christian advocates around the world. As I began thinking of the implications of this ruling for me and all the courageous pro-family Christians around the world standing for Biblical truth against great opposition, I realized that our struggle is not yet over, and we must continue to defend the United States Constitution and our shared Biblical values. Therefore, I am voluntarily returning to the lions den. Please keep us in your prayer.

And if possible, could you help us cover a shortfall in donations in May and early June? It’s not at an emergency level, but it is significant. If you have the means to do so please give here:

www.defendthefamily.com/help/donate.php

Blessings,
Dr. Scott Lively