

Complaint filed over Johnson Amendment's application

August 30, 2024

TYLER (BP)—The National Religious Broadcasters association has joined a complaint alongside two East Texas churches calling for the Johnson Amendment to be declared unconstitutional.

The complaint was filed in the United States District Court for the Eastern District of Texas in Tyler on Aug. 28.

Sand Springs Church in Athens and First Baptist Church in Waskom joined in the complaint as did Intercessors for America, a national prayer ministry based in Purcellville, Va. First Baptist in Waskom is uniquely aligned with the Southern Baptists of Texas Convention.

Congress approved then-Senator Lyndon Johnson's amendment to the U.S. tax code in 1954 that prohibited 501(c)(3) organizations such as charities and churches "from engaging in any political campaign activity." In 1987, Congress added a clarification that the amendment also applies to statements opposing candidates.

According to a National Religious Broadcasters statement, the complaint details how organizations have "engage[d] in electoral activities that are open, obvious and well-known, yet the IRS allows some, but not all, such organizations to do so without penalty."

The Internal Revenue Service, it continued, routinely "acts in an arbitrary and capricious manner" toward nonprofit organizations "that disfavors conservative organizations and conservative, religious organizations." Such an unequal enforcement, it determines, constitutes "a denial of both religious freedom and equal protection."

And as such, the National Religious Broadcasters notes, the amendment itself should be discarded.

“For too long, churches have been instructed to remain silent on pressing matters of conscience and conviction during election season or risk their 501(c)(3) status,” said National Religious Broadcasters President and CEO Troy A. Miller.

“We believe that all nonprofits should have the constitutional right to freely express their point of view on candidates, elections and issues on the ballot. Our challenge to the Johnson Amendment is about securing the future of free expression for all Americans, particularly those standing in the pulpit.”

National Religious Broadcasters General Counsel Michael Farris said the amendment’s history showed a “discriminatory” pattern of respecting only certain groups’ freedom of speech.

“Our intent is to vindicate the right of every church and religious nonprofit to express what their faith teaches on every issue, including political matters, as is their right and their duty,” he said.