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Atheist group can sue IRS over enforcement of pulpit politicking

by Sarah Pulliam Bailey by Religion News Service

A federal judge has ruled that the Freedom from Religion Foundation may continue its lawsuit over whether the Internal Revenue Service enforces a ban on the political activity of tax-exempt religious groups.

FFRF, a Wisconsin-based group for atheists and agnostics, filed a lawsuit after the 2012 elections, arguing that a lack of IRS enforcement was unfair. The IRS filed a motion to dismiss the case, saying taxpayers often do not have standing to sue other taxpayers.

On Aug. 19, U.S. District Judge Lynn Adelman in Wisconsin denied the motion, writing that FFRF "has standing to seek an order requiring the IRS to treat religious organizations no more favorably than it treats the Foundation."

Since 1954, the IRS has prohibited tax-exempt groups, such as churches, from political activism on behalf of or in opposition to a candidate. The lawsuit puts FFRF in a similar camp with conservative groups challenging the IRS. However, FFRF wants to strengthen the ban on politicking while others want the ban lifted.

"The time for a free ride for churches is over," Annie Laurie Gaylor, FFRF's co-president, said in a statement. "If these churches -- which are accountable to no one in government yet get so many favors -- are allowed to engage in tax-exempt politicking, it would be the ruination of our democracy."

Observers found the judge's decision significant because similar attempts in the past have failed. For instance, groups have tried to sue over the Catholic church's involvement in anti-abortion activism. "It is a tactic that's been used before, but without success," said Lloyd Hitoshi Mayer, a law professor at the

University of Notre Dame. "I can't see it going anywhere."

FFRF is not the only group attempting to challenge the IRS. A week ago, a group of religious leaders recommended to Sen. Chuck Grassley, R-Iowa, that the IRS lift its ban on pulpit politicking.

Around 1,600 churches participated last year in "Pulpit Freedom Sunday" sponsored by the Arizona-based Alliance Defending Freedom, preaching on political topics and daring the IRS to crack down. Pastors have sent transcripts or recordings of their sermons to the IRS, but no churches have heard from the IRS.

"The case is interesting but it remains to be seen how significant it is," said Erik Stanley of ADF. "I will be surprised if FFRF is ultimately successful."

The federal government has offered FFRF the same housing allowance tax break offered to clergy but group leaders do not want one, saying it creates an unfair advantage to religious groups.

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