



Broadcast Transcript

Broadcast: Law and Faith: Defending Religious Freedom – Part 1

Guest(s): Jeremy Dys

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Dr. James Dobson: Well, hello everyone. I'm James Dobson and you're listening to Family Talk, a listener supported ministry. In fact, thank you so much for being part of that support for James Dobson Family Institute.

Jeremy Dys: There was a case that was decided in 1971, that had over time morphed into this horrible BMF of law that basically anytime religion appeared in public get lost. Coach Kennedy's case overturns that case, it's called the Lemon Case, *Lemon v. Kurtzman*. Justice Gorsuch in writing the opinion just says this great thing upfront. He says, look, the First Amendment has a number of clauses in it. The free speech and the free exercise clauses kind of work together, he said, there's supposed to be two sides of one coin and thus religious speech is doubly protected under the First Amendment. Doubly protected, massive seismic shift in the law. Now you and I are more free than we've been in our entire lifetimes. It then falls to us, mom and dad, falls to you to live like free people. We went out and won the battle. Go out and take advantage of the territory we've conquered.

Roger Marsh: Well, that was Jeremy Dys from the latest conversation I had with him at the National Religious Broadcasters Convention and that is what you'll be hearing in the background behind me. Lots of other Christian communicators working and meeting all around us. There is an exciting buzz in the air indeed. Well, with that, welcome to Family Talk, the broadcast division of the Dr. James Dobson Family Institute. I'm Roger Marsh, and today you're in for a bit of a treat. You probably recognize my voice as the voice of family talk, but on today's broadcast, I'll be sliding into the co-host seat. I'm also a radio program host myself. In addition to being an ordained minister and a published author. Now, today's program was recorded at the National Religious Broadcasters Convention in Nashville, Tennessee. In the midst of thousands of industry leaders and decision makers within the Christian media community. It was a real honor for us to be there.

Now our special guest for today's program is a man that I've known for quite some time. His name is Jeremy Dys. Jeremy is the senior counsel for First Liberty Institute. Jeremy earned his law degree from West Virginia University College of Law back in 2005. Then after law school, Jeremy was a clerk for the Honorable Russell M. Clawges, Jr., the chief judge of the Circuit Court of Monongalia

County in West Virginia. For six years prior to joining First Liberty Institute, Jeremy also led a public policy organization where he spearheaded research and advocacy efforts on matters of life, marriage and religious freedom. Jeremy and his wife Jenny Ann, have four boys. They certainly have a beautiful family indeed. With that, here is the first part of my interview with our guest Jeremy Dys, right here on Family Talk.

Jeremy Dys: I am a Dr. Dobson kid. I was raised on Dr. Dobson, so it's always a joy to be on his program.

Roger Marsh: Well, we love having you here especially to talk about the case as the First Liberty Institute is dealing with because we know that religious liberty is a big issue. You mentioned you were a Dr. Dobson kid. How would you describe your upbringing? Were you raised in the traditional Christian home from that era?

Jeremy Dys: I was blessed to have two very strong Christian parents who identified the importance of worldview in particular in my life, which sort of set me on my career path in and of itself. But they listened to Dr. Dobson. I remember very distinctly actually, sitting in the parking lot of Fort Myers Christian School waiting for my sister to get out of some other choir or music rehearsal that she had after school. Me and my mom sitting in a big blue van together, we would either be listening to Point of View or Dr. Dobson. It just depended on the day that we were at the school together. But Dr. Dobson was a regular point of impact in my parents' lives, spoken to their lives and into their parenting, and I was a recipient of that. There are other inflection points. I was a high school student and youth group we went through his life on the Edge series together.

Then now I'm a father of four boys and I got to tell you what he wrote in bringing up boys. There's a lot of truth inside of that. My favorite anecdote is a part of the story that says the kid jumps off the back of the couch, breaks his arm, the arm heels up, he gets back on the couch and says, surely it couldn't happen twice. That in a nutshell is raising a boy right there. So I've been growing up with Dr. Dobson and have the chance now to raise my kids with a lot of the same wisdom that he gave my parents.

Roger Marsh: I think that's incredible and it's so wonderful to hear. We hear that a lot from people who say Dr. Dobson raised me and now I'm using his timeless principles to raise my own children as well, and I pray that that goes well for you and Jenny Ann. When you were growing up, what got you interested in the law? I mean, typically when kids are growing up, they want to be astronauts, firefighters, professional athletes. You wanted to be a lawyer.

Jeremy Dys: Yeah, I was definitely the atypical kid in that regard. Dr. Dobson talked a lot about worldview and the importance of making sure we understood what we believe and what it means for the rest of our society. So I suppose I heard a lot of that from him, from my parents as well. We had dinnertime conversations that revolved around the headlines of the newspaper every day and just talking about again, what do we believe and what does it mean for the world around

us? About the eighth grade, and I know this is a weird point to start my career path on is in the eighth grade, but in the eighth grade, my parents introduced me to another guy named David Barton and his group called WallBuilders, which I'm sure your listeners are probably very familiar with. I got fascinated with the founding of our country at that point and the religious heritage that we had in our country.

Jay Sekulow was getting pretty popular at that point as well, kind of plowing the ground that I would ultimately follow behind in my career path. I guess maybe I argued too much with my parents and they identified some certain skills in terms of legal skills at that point and they continued to hone my worldview and that's where I felt called to being an attorney to defend religious freedom. I look at that now as a 45-year-old man going, how did an eighth grader sense that kind of call in his life? I don't know. But that's where the Lord's led me down the path of life and ultimately that got me to this point where here I am, now a grown up, being who I wanted to be when I grew up. I'm an attorney to defend religious freedom.

Roger Marsh: I love that. You were wanting to be who God wanted you to be and there was a synergy there. It wasn't just, I'm going to do this, come hell or high water, it's God, I'm sensing this leading and your parents instilled that and that sense of faith that everything you do has a purpose and there's God behind it, and when God's in it, nothing's going to stop it.

Jeremy Dys: Well continue the story and bring it full circle and I may be previewing what we're going to talk about anyway, but WallBuilders was hugely important to me growing up and influencing my own career path. I'm friends now personally with Tim Barton. He's a good buddy of mine. We go hunting together, but Wall Builders is now a client of ours. So we represent David and Tim and the entire Wall Builders crew in Washington, D.C. where they wanted to put an advertisement on the sides of the buses in Washington, D.C., but the group called the Washington Metropolitan Area Transport Authority. Can we just call it WMATA from now on because that's a mouthful.

WMATA didn't want their ads. The ads by the way, were beautiful. There's a picture of George Washington and his attitude of prayer outside of Valley Forge. You know the picture we're talking about. Over top of it just said the word Christian and a question mark and said to find out more about the faith of the founders, go wallbuilders.org and this, they rejected saying that it was an issue ad, an issue on which there could be varying opinions among the public. Now, I don't know any ad that doesn't have varying opinions among the public. But this is what they said.

There's also a guideline that they have that this allows any religious advertisements on the sides of buses too. We're going after that part of the thing as well. But here's the fun part of the soul story. Not only is it just like a full circle thing, they kind of influenced me. Here I am, friends with David and Tim representing the WallBuilders before the court there, but you know who

else is our co-counsel in that case, the ACLU. So even the ACLU agrees that WMATA is the bad actor here, and I think this is going to be a case that's going to be around for a little while because there's a circuit split on it that the Supreme Court is going to have to eventually resolve.

Roger Marsh:

It's amazing that the American Civil Liberties Union would actually be fighting for American civil liberties for a change. I mean it's a great thing. Yeah, it's a wonderful thing. Jeremy Dys is with us from First Liberty Institute and we're talking about faith and how it's woven into the fabric of our nation. It's so important for younger generations to understand this, and I'm grateful that you're having this conversation here with parents because your parents instilled this in you. You're instilling it now in your sons and there's a whole generation that seems like that just forgot, generation Z, generation alpha coming up. Either they didn't know or they knew and then they forgot. It doesn't pertain to me. Everything's about my truth and my reality. Talk about why it's so important for parents to be intentional in teaching the faith in family and connection in our nation.

Jeremy Dys:

Yeah, you used the right word, intentional because these are not truths that just simply pass down through the bloodstream, and I'm bringing that phrase out because that was something that Ronald Reagan said years ago. The freedom is not something we pass through the bloodstream. It's something we have to rededicate ourselves to, every generation, unless we wake up one day and talk about the America that used to be, well, that's where we find ourselves even right now. Our kids are not going to understand freedom, let alone religious freedom or all the elements of our worldview unless we are intentional about talking to them about it. Look mom and dad, I get it. These are sometimes gross topics we have to talk about, but these are critical issues going forward and what you choose to talk about and what you choose not to talk about is going to impact what your kids think and believe going into the future.

So don't shy away from that. Look, we need to be wise about how we have these conversations. There's no point in being graphic about our conversations for the sake of simply being graphic. That's of course not what we should be going about. I remember actually the book, *Preparing for Adolescence*, Dr. Dobson again, that's where I learned about the birds and the bees in large measure, and he talked about it in a very, very professional and very clinical sort of a way. We can do the same thing with these conversations that are swirling among us right now. The point being, we should have these conversations. Here's the best thing in my mind to do. Look, I'm an attorney, I filed lots of cases around the country. I've been admitted to a lot of courts. I've been a part of a litigation board of the Supreme Court of the United States, and of all those things, I think the most impactful thing I have ever done was to have dinner with my kids.

You might one day be my client, I don't know, you might grow up and be an attorney like me perhaps. Perhaps you'll even be better than me and be appointed to be a judge or a justice on the Supreme Court. Fantastic. I would

love that to be the case, but you, mom and dad can have more impact for the cause of freedom and religious freedom by just simply sitting down at the dinner table every night, having dinner with your kids, being present there with them and talking about these issues, helping them process the many thousand different strains of thought that are coming to their heads every single day, competing for their attention. Work with them, talk to them, instruct them, train them in the way that they ought to go. They won't depart from that as they get older.

I got an 18-year-old boy right now, and I could tell you stories of growing up and my buttons are going to bust off my chest because I'm so proud of the young man he's become because his mom and I worked really hard for the last 18 years to train him in this. Now I pray every day that he and his brothers stay on that same path going forward, but I'm proud of who he is right now and that he's adopted this faith as his own faith and believes in it and can think really well about these important cultural issues. Mom and dad, you can do that too, there's no degree that's necessary to be a mom or a dad, just means showing up and having the conversations.

Roger Marsh: This is turning into a great parenting program. I think at some point we should talk about the law, but Jeremy Dys is with us from First Liberty Institute and we're having a conversation about instilling values and how the rule of law in our country, the founding of our country has God's hand print and fingerprint all over it, and it's up to us as parents to instill those values into our children as well. Now First Liberty Institute is one of those organizations that we hear a lot about. You're an attorney, obviously Kelly Shackelford, our friend is the president of First Liberty. How is Kelly's health, by the way?

Jeremy Dys: He's doing really well. Thanks for asking. Actually, he just won a golf tournament at his local course.

Roger Marsh: Didn't he have open heart surgery or something like that?

Jeremy Dys: He had a valve replacement. Yeah. So he's doing really well.

Roger Marsh: That's good. Well please, Dr. Dobson and Shirley send their regards to Kelly as well. Talk about what First Liberty Institute is. I know a lot of people will hear these names, ACLU, ACLJ, whatever, and they'll wonder, okay, well you're an attorney, but this is an organization. How does that all work?

Jeremy Dys: Yeah. First Liberty Institute is a nationwide religious liberty law firm. All we do is defend religious freedom for all Americans, whether that's in our schools, in our military, in the marketplace, in the public square or in our houses of worship. We believe everybody deserves a religious freedom and it is the building block upon all the rest of the freedoms that we possess as a country.

Roger Marsh: One of the cases that you recently were successful in getting a successful outcome for your client was the case of Coach Joe Kennedy. This is such a happy ending story, but it has so many different bizarre plot turns and twists, even turning his own family against him, literally at the core. Can you give us an overview first of what the case was really about? Because we heard this is the guy who's the coach who takes a knee at midfield at the end of the football game, and now he's going to the Supreme Court. There's a lot that goes between that point A and point B. Help us understand what the case was about.

Jeremy Dys: Coach would tell you, he's just the average Joe. He's just a regular guy, never went out looking for this battle. The battle came to him, but no, he spent his career in the military, in the Marine Corps, came out and was asked to coach football. The funny part of that story is that he was like 4'10 in high school, never played football, and then he was out on a run and someone saw him with a T-shirt on, that said Bremerton High School. That's apparently how they select football coaches in Bremerton. So coach got the job to be a football coach, as an assistant football coach out there. Look, he'll tell you also, he's not an Xs and Os guy. He knows how to make men move on a mission.

Roger Marsh: Yeah, he's a military guy.

Jeremy Dys: In the Marine Corps. So that's really the role he filled. So things were going great, in the game he would take a knee in silent prayer. He did that because of the Kendrick Brothers movie. Remember that Facing the Giants?

Roger Marsh: Facing the Giants.

Jeremy Dys: That's where he got the inspiration out that. So it would be like 15 seconds, he'd sit down on a knee to say a quick prayer and move on with his time.

Roger Marsh: Silently.

Jeremy Dys: That's right. It kind of grew into a thing after the event because kids ask, hey, coach, what you doing? He said, I'm praying. Well, can we join you? Well, it's a free country. Do what you want. So they did, and somebody complimented the school district about that and the investigation that ensued because of course you investigated every compliment revealed that he was actually praying and they said, well, you can't be doing that. So long story short, he was eventually fired from his job for 15 or 30 seconds of silent prayer on a knee at the 50 yard line in the football field.

Roger Marsh: That no one had complained about, by the way.

Jeremy Dys: That only had complimented the school district about, in fact. We thought we'd send a letter like a month later, things would be fine and we'd be happy. Well, seven and a half years later we're at the Supreme Court for the second time. But this is a great story. The law on this is, I'm going to nerd out on this for a little bit

because it's really, really important. There was a case that was decided in 1971 that had over time morphed into this horrible behemoth of a piece of law that basically anytime religion appeared in public, get lost. So Coach Kennedy's case overturns that case, it's called the Lemon Case, Lemon versus Kurtzman. That case is no longer good law. You can't rely upon it anymore. Justice Gorsuch in writing the opinion just says this great thing upfront. He says, look, the First Amendment has a number of clauses in it.

It has a free speech clause, it has a religious liberty clause, the free exercise clause. It also has an establishment clause. Well, the free speech and the free exercise clauses kind of work together, he said, there's supposed to be two sides of one coin, and thus religious speech is doubly protected under the First Amendment, doubly protected. Now we have gone from religious speech and public loses to now having the clear understanding that religious speech is doubly protected under the Constitution, massive seismic shift in the law. So with Kennedy's case, we do away with a Lemon test, that's gone, it's dead law. You can't use it anymore. Now you and I are more free than we've been in our entire lifetimes. It then falls to us again, mom and dad, falls to you to live like free people. So we went out and won the battle, go out and take advantage of the territory we've conquered.

Roger Marsh: It's a huge victory and there are two pieces of the story that you haven't touched on yet that I want you to because you mentioned the Kendricks and they played a role in actually getting Joe to where he is today and then also his wife. I did not know until Joe and I talked about this, when the book came out, about the role that his wife played in this whole thing, what a horrible position she was placed in because somebody called and complimented her husband.

Jeremy Dys: Those two stories intersect as well. Denise, his wife, was the HR director of the school system, and so in a very real way, coach Kennedy sued his wife. They talked about...

Roger Marsh: Superintendent basically goes to HR and says, do an investigation. Oh by the way...

Jeremy Dys: She had to fire him. Then she was the recipient of the lawsuit as well. They say that that created some intense moments of fellowship.

Roger Marsh: I can imagine. Yeah.

Jeremy Dys: It really did put a strain on their marriage. Ultimately, she withdrew from the job entirely and they moved, but there was a critical point where they had just had, as couples often do, but they had a disagreement. The strain of the lawsuit had grown to its max. There was a strong disagreement that they had had, and they were just broken, and coach was just storming out of the house and he looks down on his phone and it's a text message from Alex Kendrick with some encouragement for him and his wife.

He literally falls down on the stairs. His wife comes out screaming like, oh my goodness, you fell down the stairs kind of thing, and he couldn't even talk. He just holds the phone up and says, look at this, and he'll tell you that it was as if God knew what they needed in that very minute to remind them the importance of marriage. He was praying not only for Coach Kennedy, but also for Denise as well. So they've weathered through one of the biggest storms you could probably weather as a husband and wife, and they've come out much stronger on the other end of things here. So yeah, these are real people behind legal cases and the stories are real human stories.

Roger Marsh: You mentioned earlier, something about us having to utilize the services of First Liberty, and I'm sure there are a lot of people listening to our conversation right now saying, I'm so happy for Coach Kennedy. I'm so happy for Pastor, is it Chris Avell in Ohio. Good for them that First Liberty is there, but we don't, I mean, we're just us. We're just rank and file people. How much closer are we to saying I might need First Liberty Institute? I mean, it seems like more and more rank and file random people are getting sued.

Jeremy Dys: Or finding trouble that they have to be filing a lawsuit from. So I mean, look, when the government oversteps its role as the rightful authority, it's right and proper for us to say, no, you got to go back into your own sphere. This is not an area you're allowed to trot on. All of life is affected by government and all of life is impacted by our religious freedom. So wherever you may find yourself at school, within your job, you still have your religious freedom. We won another great case this past term at the Supreme Court regarding employment. Your employer now has to actually make a meaningful effort to accommodate your religious beliefs if you run into some sort of...

Roger Marsh: This is the airlines.

Jeremy Dys: This is the *Groff v. DeJoy* case, the postal service case.

Roger Marsh: The postal... Oh, right. Yeah.

Jeremy Dys: This is another case was from 1977, if I remember right. Again, it ballooned into something that it was never meant to be. Well, it's now bad law. You actually... The companies have to make a meaningful effort to accommodate your religious beliefs within the job. They can't just fire you because you have a conflict on Sunday or whatever it might be. So you have the rights to... Again, I go back to what I said earlier, you have more freedom today than you've had in decades, most of our lifetimes. Go use that freedom, live like a free people.

Roger Marsh: In the case of the postal worker, I mean, when you think about old bad case law, that was the precedent. Here's the postal service, and we remember, I'm old enough to remember, you probably aren't, but I'm old enough to remember when they only delivered Monday through Friday. They didn't work Saturday and they sure as heck didn't work on Sundays. So to have a worker who says,

okay, I'm a Christian. I go to church on Sunday, please stop scheduling me on Sunday. I'll work any of the other six days. For them to fall back on the, well, no, you have to work Sunday or we'll fire you.

Jeremy Dys: You know the really remarkable story about Gerald Groff, this case we're talking about, he had enough seniority that hey, he worked one or two Sundays in the year. He would've been able to schedule himself off on Sundays. Think about that. One, two compromises of your beliefs, your convictions, and you're never a Supreme Court case name. You have a job, you have a pension, you're fine. That's how serious Gerald took his position. He was not willing to compromise even once or twice what he believed to be a duty before God in order to maintain his job.

Roger Marsh: He shouldn't have to.

Jeremy Dys: He shouldn't have to. Thankfully now, not only does he not have to, people around the country don't have to because he was willing to take that initial front. Look, Gerald didn't choose that battle. That battle came to him and he was willing to confront it. There are a lot of people that will run into the same issue around the country too. You're not going to choose the battle to go out there. I don't think a lot of people grow up and say, I want to be a Supreme Court case name someday. I don't think that happens, but when it comes to them, they don't shrink away from it either, and no one should be afraid of that issue either.

Roger Marsh: It's an interesting time we're living in. Talking with Jeremy Dys from senior council with First Liberty Institute. On the one hand, you're seeing people being raked over the coals, whether it's the Kennedy case, the postal case, the pastor case. At the same time though, it seems like every one of these cases we're finding victory and bad case law because precedent is everything in the court, bad case law being overturned. So it's a struggle for the people who are going through it, but it seems like God's kind of restoring the rule of law through organizations like First Liberty. Are you guys sensing that too?

Jeremy Dys: Absolutely. Yeah. I mean, again, we've overturned two or three cases in the last five years from the 1970s that have been a huge restraint on freedom. In one sense is right to be happy, to be praising God for the freedoms that we find ourselves living under right now, a newness that is there, but look, the challenges remain because there are still a lot of government officials that haven't gotten the memo that the people of the United States have all these freedoms I keep talking about, and so we constantly have to go out there. You mentioned Pastor Avell earlier. That's an incredible situation. I never thought I would ever see a pastor being indicted for having his church open for 24 hours a day on criminal charges. It is just incredible that we'd actually have to go through all that, but just because we have taken new territory or retaken the territory that was owed to us at the founding, doesn't mean that the job is over. We've got to hold that territory as well, and that's where it comes down to our continued efforts to preserve that freedom.

Roger Marsh: Well, Jeremy, there's so much more I want to get into. I want to get into Pastor Avell's story, the fine-tuned nuts and bolts part of it because it sounds just horrific and intrusive, and yet I think there's a lot we can learn from what he's going through and what other churches will invariably be facing as well. There's so much at stake for our country too, and including the upcoming election. So can you be with us again tomorrow so we can continue this conversation?

Jeremy Dys: Sure thing.

Roger Marsh: Okay, great. Thank you so much. This is such an important conversation for such a time as this. Well, I hope that today's program has inspired you to stand up for our God-Given rights and values when you are called upon. That was our guest, Jeremy Dys here on Family Talk. If you missed any part of today's program, remember you can listen again on our website at DrJamesDobson.org/familytalk and don't forget to tune in again tomorrow, you'll hear the conclusion of this conversation. During this month of March, it's important for us to take some time to reflect on the good news and what Jesus Christ did for our salvation. Dr. James Dobson has prepared a special Easter message that he's made a part of his monthly newsletter for the month of March, and we would love to send it to you absolutely free. To get yours, all you have to do is go online to DrJamesdobson.org and you'll find his letter entitled, Why the Need for a Savior right there on the landing page.

Now, once you enjoy this monthly newsletter, you'll want to receive others as well, and you can sign up to receive them absolutely free. Go directly to DrJamesDobson.org/newsletters. Our prayer here at the Dr. James Dobson Family Institute is that we can walk alongside you to help you and your family grow closer to God and to each other, especially during this month where Holy Week culminates with Easter Sunday. Now to reach the next generation, the Dr. James Dobson Family Institute has embarked on a new initiative where we are remastering Dr. Dobson's biblically based transforming truths into 60 second audio messages. The new Dr. Dobson Minute will provide young families with practical insights that will strengthen marriages and help build better parenting skills. If you'd like to listen to a sample, just go to DrDobsonminute.org today. That's DrDobsonminute.org, and thanks for keeping in mind that Family Talk is a listener supported Christian radio program.

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Announcer: This has been a presentation of the Dr. James Dobson Family Institute.