



Broadcast Transcript

Broadcast: The Latest on Court Cases Impacting Our Religious Freedom – Part 1

Guest(s): Kelly Shackelford

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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.

Roger Marsh: Welcome, and thank you for listening to this Monday edition of Family Talk. I'm Roger Marsh, hoping you had a wonderful Thanksgiving celebration. We have as our guest on Family Talk today, one of the most knowledgeable authorities on religious freedom in the nation. His name is Kelly Shackelford, Esq., and he is the President and CEO of First Liberty Institute. First Liberty is a unique organization. It is the largest firm in the nation dedicated exclusively to protecting religious freedom for all Americans. Under Kelly Shackelford's leadership, First Liberty's legal team has participated in cases before the US Supreme Court, federal courts of appeal, federal district courts, and state courts. Some of the best litigated in the country donate their time to First Liberty to fight these cases that are so important for our freedoms. And they have won more than 90% of these cases.

Roger Marsh: Today, Kelly Shackelford will be sharing an update on recent religious freedom cases in America. We hope that you'll be encouraged by his report.

Kelly Shackelford: What a privilege to be here. Dr. Dobson's one of my heroes. Always has been. So a number of years ago, when he asked me to come to speak to the gathering, it was somewhat surreal that I would be speaking at his gathering, and then he called me a hero. So I've always been dizzy or confused since he did that.

I'm going to tell you something that is going to be a little different probably than everybody else, which is I'm just blown away right now by God's favor. There's darkness everywhere, but everywhere we're going, God is giving us victories. In the last four months, I think we've had 16 victories, case victories. We've had three wins in the Supreme Court in the last three years. We've got an oral argument in the Supreme Court in about six weeks that I think, and I would never usually say this, but I bet there's a 95, 97% likelihood we're going to get a great victory in that case. I'm going to give you some updates that are going to be some good news about some things that God is doing and what's happening, but I know that there's some people here who might not know about First

Liberty or what we do. So let me start with the basics, and then I'll roll into of the updates.

What's First Liberty? We're the largest legal organization in the country that all we do is religious freedom. I think a lot of you probably seen the news on our SEAL team. We've got the 40 Navy SEALs that we're representing, that they're really abusing right now in the military. These are people, many of them whom have immunity, all of whom have religious objection to taking the vaccine. And there's a process for that. It's in the law, but because they've asked, they're being told they could be court marshaled, their families are being punished right now. This is all illegal. And it's just outrageous what they're going through.

Well, these are people that risk their lives, some of them already have PTSD, but if you're that age, what are you going to do when you need legal help? You're not going to pull out hundreds of thousands of dollars and higher a legal team. So we come in, we bring the best litigators in the country, they all donate their time. So that when we win the case, which we certainly plan to win for these 40 Navy SEALs, we don't just win for them, but we set a precedent that really protects everybody who serves in the military. And the same thing in our schools, with our churches. So that's really what we do and how we do it.

Now, the thing I always like to start out before I get into what's happening is why is religious freedom important? It's even important if you're not a Christian or if you're not a religious person at all, by the way, because it's our first freedom. If you lose it, you lose all your freedoms. But I want people to understand, I think most Christians don't get how big it is. They tend to think, "Yeah, I want my freedom to live out my faith." It's a lot larger than that. And I think we're starting to see that as this Marxism starts to creep into the country. We see that Marxism has to remove the church. These are competing philosophies. And when it does, incredible evil follows. So this is bigger than just my ability to share my faith. This is about what kind of country we're going to have and whether evil is going to run rampant, because without the church, that's what will happen. If you don't have religious freedom, you're going to lose that.

There's a great book, I don't know if you've read it that's out right now, but I highly encourage it by Rod Dreher called *Live Not by Lies*. It's only about 214, 215 pages. He interviews people from the former Soviet Union, from Czechoslovakia, from Hungary, people who watched communism happen in their country. And to a person, every one of these is terrified at what they're seeing in the United States. And so the natural question you ask is: how did they turn it over there? How do we stop it here? What do you do? And the answer is, live not by lies. "Live Not by Lies" is Alexander Solzhenitsyn's last essay before he was banned from the Soviet Union. And in it, what he says is that these totalitarian regimes only work if people go along with the lies. If enough people, not a majority, just enough people stand and speak the truth. Everybody else sees the emperor has no clothes and it collapses. And they tell the story of how that happened in all these countries.

And so that's where we are right now. We're in this unique time where this new system is trying to come in and change. And it depends upon people who won't stand and speak the truth. This is the job of the church. Marxism can never come in as long as the church, as long as religious freedom is going in the United States. And the best way I can put it is the one thing that totalitarianism can never allow is citizens who hold an allegiance to one higher than the government. Because whenever that type of oppressive regime comes in, there are these people that their allegiance is to one higher than the government. And if you lose there, you'll lose all your freedoms. And the founders, this is why they called it the first freedom. They understood that. So that being the case, how are we doing?

Well, I probably don't have to convince you that we're in a war over religious freedom right now. 11 years ago, we had 48 cases. Last year, we had 321. And the types of cases are things you couldn't even imagine. I don't have to go very far. I mean, look at COVID okay. What happened when these governors and mayors just got power they had never had in their lifetime? What was the flash point that we all saw? It was shutting down the churches, the synagogues, it was religious freedom. It's exactly what we've been saying, what I've been saying for 32 years, that religious freedom is really the center here. And you got to watch it if you're going to see about all your other freedoms. And we knew this, we knew going into the pandemic, that there was going to be a real problem because there's no precedent in the law anywhere on the First Amendment and religious freedom during a pandemic.

And think if you're a judge, a federal judge, and somebody comes into court and says, "Hey, we want you to open our church on Sunday for an hour." And on the other side, the governor is saying, "I'm trying to save millions of people's lives." You can see how difficult it might be to convince that judge, to issue that first precedent in the United States, protecting religious freedom in the First Amendment. And so we prayed a lot and we were getting hundreds and hundreds of requests. "You won't believe what they're doing to my church, my synagogue. How they're discriminate against us. They're shutting us down. They're allowing the gambling parlor to be open." You saw all the crazy stuff going on, and we really wanted God to pick the right case.

And if you'll remember the visuals we were seeing at this time was a guy throwing a baseball with his children being hand handcuffed because he was in a park, a guy walking off the beach with a surfboard when nobody else was on the beach being arrested for surfing. And everybody was asking, "Has the Constitution been suspended?"

And all of a sudden, about a year and a half ago, we got a call from a church in Louisville, Kentucky. And they said, "We wanted to do Easter..." This is right before Easter. "We wanted to do Easter and be together, but be safe. And so we came up with this idea that we would drive our cars into the church parking lot. The minister would speak over a radio frequency. We could all be together. We could all hear the sermon and we could celebrate Easter."

I'm no CDC expert, but again, I don't know how much of an expert the CDC is these days either, but I don't think you passed the coronavirus from one automobile to another. So we're pretty safe there. The city of Louisville said that this was a crime and that they would criminally prosecute the church and any car who was in the church parking lot. The governor followed this up by saying, "We're going to send police officers to every church on Easter weekend. Any church that has a car, we're going to take the license plate down and we are going to visit them, police, at their home. And they will be quarantined for 14 days." We said, "Okay, we're now in China. This is the case."

So, on Good Friday, a year and a half ago, we filed for federal injunction in... What's called a TRO. We got a judge by the name of Justin Walker. And Justin Walker issued... We call this the shot heard around the world. It's just like our American revolution. Everybody was wondering, "Is the Constitution suspended?" This judge looked at this and said... You ought to read this opinion. It's really enjoyable to read. He said, "I'm writing something I never thought I would even read in some dystopian novel. An American city has criminalized an Easter gathering." He said, "This is outrageous. It's unreasonable. It's massively unconstitutional. And this will never happen as long as I'm a federal judge in this country." And he issued a strong injunction saying, "This is against the Constitution."

And so really, we reset things. The Constitution was in place, but our goal wasn't to get people back to their church parking lot. So our next lawsuit was Tabernacle Baptist Church. And this is a church in a rural area, had a large facility, plenty of room for social distancing to do things safely. But in the state, it was illegal to have a church service. You could go to the Home Depot, thousands of people, the gambling parlors were officially open. Of course, liquor stores, you know all the things, but evidently the coronavirus was only dangerous in the church on an hour on Sunday, but it wasn't dangerous everywhere else. It was nonsense. We filed the lawsuit. And by the time we were finished, not only had we won an injunction for this church, but the attorney general of Kentucky, wonderful African American by the name of Daniel Cameron, joined us suing his own governor. And by the time we were done, we had a statewide injunction protecting the right of every church and synagogue in the state to open in a safe and free manner, which is a very important win.

We won every case we had during the pandemic, but the problem is no case ever made it to the Supreme Court. So we are literally still in a battle over whether the churches are controlled by our government. So this is a real danger that we're in the middle of. But attacks have not just been in COVID. We had a major case we just won regarding a juror. I think I've got a picture of a typical jury, but this is the Brown case. This is somebody who's served on a jury, federal jury their entire time, did a great job. They're now in deliberations. And they were thrown off the jury by the federal judge. Why? What did they do? They said that they would rely up on the Holy Spirit in their determinations. The judge says that's not allowed.

So evidently you can say the oath, "So help me God," but if you believe it as a juror, you're thrown off the jury. This would throw every Christian who believes in the Holy Spirit off the jury because you can't consult outside sources. This is the rationale. How ridiculous. Well, this was so important because it could affect our whole country. Think of the Christians could serve on juries that we went en banc. In other words, you normally just get three federal court of appeals judges on a case, we had the entire circuit all set at one time because they knew this was an important decision. Good news is, we've got a victory. This can never happen again across the country to anyone trying to have jury service because of their faith.

We've had attacks on churches and I could go through a lot of these. I'll just give you one example, Canaan Baptist. This is just typical. The city came and said, "We're going to take your property." And they said, "We're going to build our sanctuary on this." And they said, "Well, I'm sorry we want it." "Why do you want it?" "We're going to build a fire station." "There's a fire station across the street." "Yeah, but we like your property better." Well, they figured they're a small African American church. What power do they have? Well, we brought in the top litigators in the country and the city pretty quickly decided they didn't want that property anymore. And one of the fun things is about three months ago, we got a call from the church saying, "Hey, we just wanted you to know we're naming the new sanctuary after the lead council who donated his time on the case for us." But this is the kind of thing that churches are having to undergo. They just want to be a church. They want to build their sanctuary.

We have synagogue cases all across the country, in Los Angeles, in New York, we've had them Houston, Dallas, where they just want to be a synagogue. And they're literally are under incredible attack, antisemitism, just all kinds of things behind this. We're winning all these, but we're having to fight over just houses of worship, being houses of worship. Look at all these woke corporation attacks that are going on. And really, most of the time, there's not anything people can do about it. We're watching these crazy things these corporations are doing, and there's no response. We actually have a new brand case that I think it's going to be the really, the first major attack on one of these woke corporations that are attacking people and there is law that's going to come into play. I've got a short three-minute video if you haven't seen this case, and then I'll tell you what's happening.

Speaker 4: Lacey Smith loved being a flight attendant. The job was a perfect fit for her personality and her faith.

Lacey Smith: I mean, there's of course adventure, that's a part of it. There were so many places that I got to explore that I wouldn't have otherwise. And in the same way, that's the same thing with the people, you just have so many different people. And so just being there and serving in a way, when you think of Jesus and the servant leadership, just being able to serve in a way that just met their need where they were at.

Speaker 4: She worked for Alaska Airlines, a woke corporation. So she was not surprised when a notice appeared on an employee-only page.

Lacey Smith: Oh, it just caught out my eye because they had just posted it. And the title was, "Alaska Supports the Equality Act."

Speaker 6: HR5 the Equality Act.

Speaker 4: That is a deceptively named bill in Congress. The large print may trumpet equality, but the fine print destroys important legal protections for people of faith.

Lacey Smith: What we're seeing now in the name of the equality for people is equality for some. That it's believe what I want you to believe or you're canceled.

Speaker 4: So she posted a comment.

Lacey Smith: "As a company, do you think it's possible to regulate morality?"

Speaker 4: And that's all she wrote, but there was a great deal of thought behind it.

Lacey Smith: In terms of regulating morality, laws are all about regulation. That's what they do with behavior. Morality when you break it down is just what is right. What is wrong, the idea behind that. As a Christian, my morality comes from God.

Speaker 4: She says, first, the airline wrote a response to her comment. Then they deleted it. Then they paused her work schedule. Then they called her in for a meeting. Then they fired her.

Lacey Smith: They said that by my asking the question, I was such a bad person that it merited firing me from my job. And I think that that's the hard part about it, that like what do people get fired for? They get fired for being not caring, incompetent, lazy, whatever. And mine had nothing to do with performance. It had everything to do with my character. And that's what they fired me for. That they said my character was so bad that I shouldn't work there anymore.

Speaker 4: And the ultimate ironing, what Alaska Airlines did perfectly illustrates why Lacey had questions about the so-called Equality Act.

Lacey Smith: I have the freedom to be who I want, unless apparently I work for Alaska Airlines. And then all of a sudden I no longer have the freedom to be who I am, because in order to keep my job, I now have to agree with everything that the company is saying and doing. When we are determined about things, and when we make up our mind about something, when we know that we know that we know, I think that it allows us that courage.

Kelly Shackelford:

I just want you to get this. Most of you probably know the Equality Act. It's a horrible piece of legislation. It strips away everybody's religious freedoms, and in every situation, in every federal law, housing, employment, you name it. Think of it. Religious freedom is not allowed as a defense. It's literally stripped away. Well, they put this on their employee-only page and said, "We love your feedback as employees." And so this is one of the people we represent. Two different flight attendants said, "Oh, as a Christian, I have some concerns." Or in her case, it's like, "Well, I have one question." They fired them for asking a question. They asked for feedback, but when they gave Christian feedback, they were fired.

Well, this is one of those things where again, you can't usually get after the woke corporations, but here there are federal laws against firing people because they give a Christian response when you ask for feedback. The Title VII of the Civil Rights Act of 1964 is coming into play. We're not only excited. We're so excited that the former head lawyer, the general counsel for the EEOC, when she looked at the facts, she said, "Can I join your legal team on this because I'd like to be a part of this?" And our goal isn't just to beat Alaska Airlines, in this case, we want to leave a mark on Alaska Airlines so that every other woke corporation gets the message that you don't do this to people in the United States of America.

So woke corporation attacks, attacks on kids at school, attacks on all these different things. The other one is attacks in our military. And I mentioned our SEAL team case that we've got right now, but we've had a lot of military cases. Probably the most well-known that's going right now is the Shields of Strength case. And this is Kenny Vaughan. He came up with this idea of having dog tags with a Scripture verse in the back, because people in the military get scared. There are times that they're terrified. And to be able to look down and to see Joshua 1 where it says, "Be strong and courageous, says the Lord, I'm with you," is very important. This has been going on for maybe 10 years. You literally can't go into any unit of the military and not find people who have these, but not anymore. Well, why not? Because the administration said, "We're not going to allow people to have these anymore." Well, why would they say that? Well, they put it in a letter. They said, "Because these have religious things on them."

So, you can wear profanity around your neck. You can wear anything you want, but you're not allowed to have a Scripture verse. Well, we're not going to stop until this case is over and every person in the military has a right to have these dog tags with Scripture verses if they so want these dog tags with Scripture verses. But these are the kinds of things that are going on in the military. So the good news is, we have a method of dealing with this. We've been doing it for long time and it's working. And that is, if you look at legal nonprofits in the country, I don't care if they're left wing or right wing, they have the same model. Raise as much money as you can raise, hire as many attorneys as you can, put those attorneys in an office in D.C. or LA or New York, fly them around the country, cover as many of your cases as you can cover. That is not our model.

Our model is there's all these believers who went to law school because they wanted to stand for what was right. 30 years later, these are the top litigators at the top law firms in the country, really the top law firms in the world. And they've done honorable work for the corporations and others who've hired them, but they've never gotten to do a case for the kingdom.

And so, we come along and we say, "Look, if we give you everything you need on our staff, top lawyers from Harvard, from all the law schools, who all they do is religious freedom. If we give you everything you need, are you willing to give your time on one of these cases?" And they're like, "Man, I've been waiting 35 years, sign me up." Well, we know what's going to happen when we give them that first case. For the first time in their life, all their talent, all their gifts, all their training, everything they've ever learned is aligned up with their faith and their love for their country. They have never felt that before. It's kind of unfair, but we now know we have them for the rest of their lives as one of our volunteer attorneys. And they're the big partners. So they give cover to the younger attorneys. They get to taste to what this is like.

And so, if you go through the top 100 law firms in the United States, most of those firms don't just donate their time with us. They'll fight each other over who gets to donate their time. And the result of this is twofold.

Number one, and this is my idea. I thought we can get a lot more bang for our buck. And sure enough, average case, every 10,000 we spend, we get 60,000 donated by these attorneys. So it's like a multiplication like a six to one leveraging of resources, of God's resources for more impact. But what I didn't count on was the win-loss ratio. And that is if you watch the nonprofit arena, I mean, they're fighting big opponents, they're fighting industry. They came into existence to fight something that needed to be corrected. And so if they're really good, their win rate might be 40% a year. Our win rate now, 22 years in a row, every single year has been above 90%. It's because of God's favor, but it's also, it's His method. This is the Body of Christ.

When we have a lawsuit in Idaho, our lead counsel is one of the best litigators in Idaho from one of the best law firms. And when they go into court, look at the judge, they were in first grade together and lost a tooth together. The ACLU guy flying in from New York or LA, he's playing an away game. We could put together dream teams in 30 minutes, anywhere in the country. You can only do that because we have the largest law firm in the nation. It's called the Body of Christ. And the result of this is you have these great litigators who live in these communities who finally get to give themselves for the kingdom. And you get these clients that could never afford these people that charge a thousand dollars an hour, maybe a whole team of them. And the result of this is a precedent that protects everybody. This is exactly how things are supposed to work.

Roger Marsh:

Well, what an exciting and encouraging update from Kelly Shackelford, President and CEO of First Liberty Institute. Victories for religious liberty are

happening all across the nation, and that's truly a reason to be thankful. Make sure you join us again tomorrow to hear the conclusion of Kelly Shackelford's update on the work being done by First Liberty Institute, and you'll hear that right here on Family Talk.

Now, if you missed any of today's program or if you'd like to learn more about Kelly Shackelford or First Liberty, please visit our broadcast page at drjamesdobson.org/broadcast. That's drjamesdobson.org/broadcast. And a quick reminder for everyone that tomorrow, November 30th is Giving Tuesday. Giving Tuesday is a cultural and social media phenomenon that has really grown throughout the years. It's the Tuesday after Thanksgiving, and it's a global one-day generosity event. It unleashes the power of people and organizations to transform mission fields. Here at the Dr. James Dobson Family Institute, we would love for you to consider making a financial gift to us tomorrow. And through the generosity of special friends of our ministry, we have a matching grant of \$75,000 ready to use. This gives you the opportunity to double the impact of your gift when you give to the JDFI. So for more information on how you can do so online, visit us at drjamesdobson.org. That's drjamesdobson.org, or you can give a gift over the phone when you call (877) 732-6825. That's (877) 732-6825.

Thanks so much for joining us today here on Family Talk. I'm Roger Marsh, hoping you'll join us again tomorrow to hear the conclusion of Kelly Shackelford's presentation on recent legal victories for religious freedom in America. That's coming your way next time right here on Dr. James Dobson's Family Talk.

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

Dr. James Dobson: Hello, everyone. Do you need help dealing with the everyday tasks of raising a family? I'm James Dobson here. And if you do, I hope you'll tune in to our next edition of Family Talk. Our main purpose in this ministry is to put tools into your hands that will strengthen your marriage and help you raise your kids. Hope to see you right here next time for another edition of Family Talk.