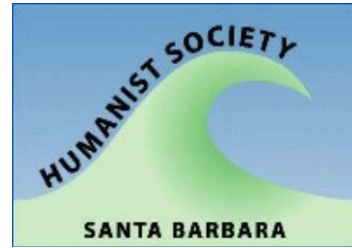


# Secular Circular



## Newsletter of the Humanist Society of Santa Barbara

*July, 2017*

[www.SBHumanists.org](http://www.SBHumanists.org)

### July Program Professor Kimberly West-Faulcon on The US Supreme Court After Justice Antonin Scalia



Professor West-Faulcon, holder of the Loyola Law School James P. Bradley Chair in Constitutional Law, will share her insights regarding Justice Scalia's impact on the

Supreme Court. In his 30 years on the U.S. Supreme Court, Justice Antonin Scalia used constitutional law doctrine to sideline the claims of discrimination against women, racial minorities, and LGBTQ persons. [See more details on Page 2.](#)

**When:** Saturday, July 15, 2017

**Where:** Patio Room, Vista del Monte (Park ONLY on spaces marked "VDM")

**Time:** Meet and Greet at 2:30. Program begins at 3:00 pm.

**Donation:** \$2 members/\$5 non-members. Free for Students with ID.

**Optional Buffet Dinner:** Dinner buffet at Vista del Monte. \$30 includes tax and tip.

RSVP to Nan Cisney by 12 noon on Thursday, July 13<sup>th</sup>.

**For More Info:** Call 805-769-4772 (769-HSSB)

## June Program (continued)

Today, legal disputes over transgender access to bathrooms, the rights of religious opponents to same-sex marriage, racial affirmative action in employment and higher education, the parameters of the Second Amendment right to bear arms as well as the significance of evidence of anti-Muslim discriminatory intent in evaluating the constitutionality of President Donald Trump's travel ban executive order are all on the horizon for the newly-constituted U.S. Supreme Court. With these significant issues in mind, Professor West-Falcon, holder of the Loyola Law School James P. Bradley Chair in Constitutional Law, will share her insights regarding Justice Scalia's impact on the Court, past, present, and future.

We are quite lucky to have Professor West-Falcon to come to Santa Barbara and speak to our group. If you care about how the Supreme Court decisions may affect how well this nation maintains the wall of separation, you won't want to miss this discussion.

## On Church/Separation

by Roger Schlueter

On June 26 the Supreme Court issued its ruling in the case of *Trinity Lutheran Church of Columbia v. Comer* which may have an important effect on how church/state separation issues are adjudicated in future cases at both the federal and state level. So let's take a closer look at the ruling.

First, some background. Trinity Lutheran Church (TLC) in Columbia, Missouri operates a Child Learning Center that accepts children whether their parents belong to the church or not. The facilities include a playground that needed resurfacing so TLC applied to the state of Missouri to fund the work. The state rejected

their application on the basis of a Blaine Amendment in the state constitution.

The justices decided 7-2 in favor of TLC, arguing that denying TLC the funding would be discrimination on the basis of religion, which is obviously forbidden by the First Amendment. Chief Justice Roberts wrote the decision and the six concurred except for Justices Thomas and Gorsuch, who did not concur with Footnote 3 (more on that later). Justice Sotomayor and Justice Ginsberg filed a dissenting opinion.

Our speaker from March, 2016, Andrew Seidel, has given his insightful perspective on this case. He notes the clip below which I lifted directly from the TLC web site, makes it crystal clear that their Child Care Program explicitly states that they offer "daily religion". As Andrew notes, "This case is not about playgrounds or skinned knees or keeping children safe. It's about the government funding a religious ministry that targets children."

The church argued that the state's rejection of their application was a violation of religious freedom because other nonprofit applications for similar facilities had been approved. The Court's rejection of the state's position may have a ripple effect throughout the country.

In making its argument, Missouri relied on its constitution, one that includes Blaine Amendment language. The Blaine Amendment was a failed amendment to the US Constitution that was introduced by Republican James Blaine in 1875. The amendment states:

"That no money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, sect or denomination of religion, or in aid of any priest, preacher, minister or teacher thereof, as such; and that no preference shall be given to nor any discrimination made against any

church, sect or creed of religion, or any form of religious faith or worship.”

This failed to pass the Senate but subsequently similar “Blaine Amendments” were introduced in numerous states with the result that ultimately 38 states included similar language in their state constitutions (including California). It is that language that Missouri relied upon for their rejection of the TLC application.

There are two ways in which the *Trinity* decision may reverberate nationwide; one is with the overturning of Blaine Amendment language in those 38 states that include it in their constitutions. But whether it does, in fact, overturn Blaine Amendment language is very unclear. The primary reason for this is Footnote 3 mentioned earlier. Justice Roberts, in his opinion, stated in the footnote that:

*“This case involves express discrimination based on religious identity with respect to playground resurfacing. We do not address religious uses of funding or other forms of discrimination.”*

Because only four of the Associate Justices joined that footnote, it is technically not considered to be a part of the court’s decision. Personally, I support the five justices who did not join that footnote for no other reason than nobody should entertain the notion that the Chief Justice wrote this opinion so as to have the binding word on the use of recycled tires to re-pave playgrounds. It is Footnote 3 that lends considerable uncertainty regarding the applicability of *Trinity* to other church/state cases. Surely other cases will have to wend their way through the courts before the intent and interpretation of this decision is clarified.

The second way that this case may have nationwide scope relates to voucher programs. As I am sure you are aware, Betsy DeVos, the

Secretary of Education, is a fierce advocate for charter schools to the detriment of public schools. She hailed this decision as removing one potential roadblock to her pursuit of extensive creation of voucher programs citing the President’s proposal to spend “at least \$1 billion” on a federal voucher program.

On its face, this decision by the Supreme Court seems reasonable. However, the fact that the majority chose to disregard the explicitly religious nature of the Child Care program is troubling to those of us who value the wall of separation between church and state.



Trinity Lutheran

Child Learning Center

Trinity Lutheran Child Learning Center (TLCLC) is a ministry of Trinity Lutheran Church serving families with young children ages 2 years (by August 1st) through Pre-K. TLCLC incorporates daily religion and developmentally appropriate activities into a school and optional daycare program. TLCLC provides opportunities for children to grow spiritually, physically, socially and cognitively.

### Solstice Party Thanks

by Pat Ward and Anne Rojas

We want to thank all the Humanists who brought cookies and other goodies to the Solstice party.

[Editor Adds] Kudos go to Anne, Pat and David for all their efforts to make the party a success.

*[Editor's Note] In keeping our focus on the Trinity decision, here is an excerpt of an article by Robert Gucci of the American Humanist Association.]*

<https://thehumanist.com/commentary/trouble-sandbox-post-mortem-trinity-lutheran-church-columbia-v-comer>

What a mess.

Recycled tires, decrepit playgrounds, scraped knees, footnote 3. The Supreme Court of the United States' decision in Trinity Lutheran Church of Columbia v. Comer was a lot of things, but explicit was definitely not one of them. In the wake of what seems to be a tentative victory for theocrats and religious conservatives, a lot of secular Americans are asking: What does this mean for me?

The answer, as it so often is with Supreme Court decisions, is: it depends. But before we get to the legal nitty gritty, what was this case all about anyway?

The facts are simple enough. Trinity Lutheran Church in Columbia, Missouri, operates a preschool and daycare center that incorporates Christian teaching and proselytization into their daily activities. In 2012 Trinity applied for a grant through a program administered by the Missouri Department of Natural Resources (MDNR), which provided funding to upgrade school playground surfaces to a rubberized finish made from recycled tires. Trinity requested \$20,000 to upgrade the old pea gravel surface of its children's learning center playground to the new rubber material. The MDNR, recognizing that the Missouri State Constitution prohibits the flowing of public funds to religious institutions, denied Trinity's application. Litigation ensued.

SCOTUS, in a rather impressive display of verbal gymnastics, held that the MDNR's refusal to allocate public funds to Trinity violated its

freedom to exercise its religion. You read that right. The court reasoned that by denying Trinity's application for its "generally available" benefits program due to Trinity's religious status, the MDNR violated Trinity's free exercise rights by forcing Trinity into a position where it could either be eligible for the funds or be a church. Moreover, the court found that there was absolutely no Establishment Clause issue with requiring the government to consider religious institutions for these types of publicly funded programs. You can't make this stuff up.

Sotomayor, who I'm sure felt like she was in the twilight zone when the straw vote was under way, wasn't having it. "If this separation means anything, it means that the government cannot, or at the very least need not, tax its citizens and turn that money over to houses of worship." In recounting the secular history of the early states, the federal government, and the Founding Fathers, Sotomayor lamented the potential ramifications this decision might have on Establishment Clause jurisprudence, noting that the majority was either mistaken to the facts or complicit in dismantling the wall of separation. "The [c]ourt today blinds itself to the outcome this history requires and leads us instead to a place where separation of church and state is a constitutional slogan, not a constitutional commitment."

## Non-HSSB Events of Interest

### Upcoming Events Outside of California:

- August 19-21: American Atheists National Convention. Speakers include Chris Kluwe, Richard Dawkins, Ayaan Hirsi Ali, David Silverman, Seth Andrews, Matt Dillahunty, and many more. In addition, there will be an Eclipse Viewing party on Monday, August 21! Charleston, South Carolina.  
<https://www.atheists.org/convention2017/>
- September 15-17: Freedom From Religion Foundation 40<sup>th</sup> Annual National Convention 2017. Speakers include Jerry Bloom, Jesse Castillo, Michelle Goldberg, Cara Santa Maria, Steven Pinker and many more. Madison, WI.  
<https://ffrf.org/outreach/convention/future-conventions>
- October 26-29: CSI Conference 2017. Speakers include Richard Dawkins, James Randi, Lawrence Krauss, Maria Konnikova, among many others. Las Vegas, NV.  
<http://csiconference.org/>

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Mary Wilk

#### Newsletter Editor:

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#### Newsletter Deadline:

Deadline for submissions to the Secular Circular is midnight, the last day of each month.

**HSSB meetings** are held on the 3rd Saturday of each month at 2:30 pm, usually in the Patio Room of Vista del Monte, 3775 Modoc Rd., Santa Barbara. More information is available at our web site: [www.SantaBarbaraHumanists.org](http://www.SantaBarbaraHumanists.org). At meetings, a donation of \$2 from members and \$5 from non-members is appreciated. First-time visitors are welcome on a complimentary basis. Students are free with a Student ID.

**Annual HSSB membership dues** are \$36 for a single person, \$60 for a couple, and \$100 (or more) to become a Society Supporter. One may subscribe to our newsletter only for an annual fee of \$20.

To join HSSB, please send your contact information and a check for your membership dues to HSSB, PO Box 30232, Santa Barbara, CA 93130, Attn: Mary Wilk. For membership information contact Mary Wilk at [mwilk@cox.net](mailto:mwilk@cox.net).

For any information about HSSB, call 805-769-4772.

Copies of this newsletter are posted on the HSSB website.

See us on Facebook





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### **HSSB Calendar**

**Tuesday July 11: Board Meeting:** 5:30 p.m. Home of **Mary Wilk**. Members invited to attend.

**Saturday July 15: Monthly Meeting:** Kimberly West-Faulcon, Professor of Law at Loyola Law School, will speak on recent Supreme Court decisions; the Patio Room at Vista del Monte. Meet at 2:30 p.m. for socializing and light refreshments. Talk starts at 3:00 p.m. Optional buffet dinner after the talk at Vista del Monte.

**Tuesday August 15 : Board Meeting:** 5:30 p.m. Home of **Mary Wilk**. Members invited to attend.

**Saturday August 19: Monthly Meeting:** Speaker and topic to be announced; the Patio Room at Vista del Monte. Meet at 2:30 p.m. for socializing and light refreshments. Talk starts at 3:00 p.m. Optional buffet dinner after the talk at Vista del Monte.