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Court: 'Faith-based' substance abuse programs unconstitutional

By [CATHERINE WHITTENBURG](#) | The Tampa Tribune

Advocates for the separation of church and state scored a victory today when the 1st District Court of Appeal reversed the dismissal of their claim that state-funded, "faith-based" rehabilitation of ex-prisoners is unconstitutional.

The Council for Secular Humanism, a New York-based organization with membership in Florida, had appealed a Leon County circuit court judge's 2008 dismissal of the group's complaint that the state's contract with Prisoners of Christ and Lamb of God Ministries is unconstitutional.

Specifically, the appellant complained that the contracts violate the "no-aid" provision of the Florida Constitution, which bars the state from spending taxpayer money "directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution."

Lamb of God Ministries is located in Okeechobee with additional facilities in Pompano Beach; Prisoners of Christ is based in Jacksonville. Their state contracts derive from a law passed in 2001 authorizing the Department of Corrections to hire faith-based service providers to operate substance abuse transitional housing programs for prison inmates recently released from state prison.

The organizations clothe, feed, house, and provide religiously based substance abuse rehabilitation and other services.

The 1st DCA's decision remands the case back to the lower court for trial, to determine whether the faith-based rehab program passes constitutional muster. The state currently contracts with about 25 faith-based providers to operate the program.

In its opinion, the panel of three judges found that Circuit Court Judge John Cooper had erred by not applying the appellate court's prior ruling in another church-and-state case: *Bush v. Holmes*. That 2006 case went on to the state Supreme Court and ultimately struck down a school voucher program that spent state dollars on private schools, some of them sectarian.

In *Bush v. Holmes*, the 1st DCA found that the Opportunity Scholarship Program violated the no-aid provision. The Supreme Court ruled against the voucher program on other grounds but did not reverse the 1st DCA's opinion.

In today's ruling on faith-based rehab programs, the 1st DCA ruled that "the trial court was erroneously persuaded by appellees that this court's decision in *Holmes I* was limited explicitly to the school context. The *Holmes I* decision did not limit its analysis to a 'schools only' context," and therefore applies in this case as well.

Ronald A. Lindsay, president and CEO of the Council for Secular Humanism, said he is convinced his side will prevail at trial. "By bringing this case, we are protecting religious liberty for both religious and secular individuals. No one should be compelled to subsidize any religion with their tax

dollars."

Mike Lewandowski, pastor CEO and Founder of Lamb of God Ministries, said he was disappointed by the ruling but had no qualms about facing trial in the case. On the bright side, he said, the publicity surrounding the case highlights the services his organization provides.

He noted that the number of such providers has dropped over the years because the cost of the services they provide outweighs the reimbursement from the state. The state pays \$19 per prisoner treated through the program.

"There's no money in it," Lewandowski said. "The cost of for us is a couple hundred dollars upfront before the guy comes in. Here's what I'd like to do: I'd like to take all of our clients from the Department of Corrections and give them to the [Council of Secular Humanism] and let them house them, clothe them and feed them for \$19 a day."