



January 15, 2024

**VIA OVERNIGHT MAIL**

Ms. Anthea M. Hartig  
Director  
National Museum of American History  
1300 Constitution Ave. N.W.  
Washington, D.C. 20560

**RE: 51<sup>st</sup> Annual National March for Life in Washington, D.C., January 19, 2024**

Dear Director Hartig,

By way of introduction, American Center for Law and Justice (ACLJ) is an organization dedicated to the defense of constitutional liberties secured by law. ACLJ attorneys have argued before the Supreme Court of the United States in several significant cases involving the freedoms of speech and religion.<sup>1</sup> We are writing to you because, as you are most likely aware, the 51<sup>st</sup> annual March for Life will take place in Washington, D.C., on January 19th, 2024. During this event, people gather from all across the country, both to march in support of life, and to take the opportunity to visit the United States Capitol and all that it has to offer, including visiting museums and other tourist attractions, such as yours.

Several unfortunate situations occurred during last year's March for Life. On January 20, 2023, some participants of the March for Life visited the National Archives. While there, some were accosted and told to cover up or remove their prolife apparel, or they would be kicked out of the

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<sup>1</sup> See, e.g., *Pleasant Grove v. Summum*, 555 U.S. 460 (2009) (unanimously holding that the Free Speech Clause does not require the government to accept counter-monuments when it has a war memorial or Ten Commandments monument on its property); *McConnell v. FEC*, 540 U.S. 93 (2003) (unanimously holding that minors have First Amendment rights); *Lamb's Chapel v. Center Moriches Sch. Dist.*, 508 U.S. 384 (1993) (unanimously holding that denying a church access to public school premises to show a film series on parenting violated the First Amendment); *Bd. of Educ. v. Mergens*, 496 U.S. 226 (1990) (holding by an 8-1 vote that allowing a student Bible club to meet on a public school's campus did not violate the Establishment Clause). As a part of the organization's commitment to the freedom of speech, ACLJ attorneys regularly handle cases specifically involving the protection of academic freedom.<sup>1</sup> Our organization is dedicated to protecting constitutional liberties—especially the rights to free speech and religious expression—by engaging legal, legislative, and cultural issues through advocacy, education, and litigation.

building. Some visitors complied; others chose to leave the building. Such an attack on free speech is unconstitutional.

Similar actions were taken that same day against prolife visitors at the Smithsonian National Air and Space Museum. Again, visitors were told to remove prolife apparel or leave the building. As a result of these incidents, the ACLJ represents clients in two separate lawsuits, one against the National Archives, and one against the National Air and Space Museum.

While we have recently reached a settlement agreement for our clients in the case against the National Archives, we remain in active litigation against the National Air and Space Museum.

We write to inform you of these incidents, and to further inform you that the National Archives has entered into a Consent Order and is enjoined from prohibiting visiting members of the public to National Archives facilities from wearing attire containing religious and political speech. All National Archives personnel, volunteers, staff, etc., at every single facility across the country will be provided with a copy of the Consent Order. The National Archives has apologized for the incident and is providing additional training to their security officers to ensure a situation like this does not happen again. Similarly, the National Air and Space Museum is enjoined from prohibiting visiting members of the public from wearing attire containing religious and political speech.

We are aware, however, that the National Archives and the National Air and Space Museum were not the only federal buildings in which visitors wearing prolife attire were discriminated against on January 20, 2023.

Our purpose in sending you this letter is to help prevent such discrimination of prolife visitors from occurring again at *any* federal buildings during this year's March.

The First Amendment to the United States Constitution protects an individual's right to free speech. This freedom is not without limitations. The Supreme Court established three different forums to establish a balance for speech: traditional public forums, designated forums, and nonpublic forums. *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37 (1983).

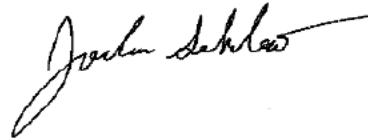
Federal buildings, like yours, are considered nonpublic forums. Nonpublic forums are areas that do not fall under traditional public forums nor designated forums. In these forums, the government is permitted to impose certain restrictions on speech so long as the restrictions are reasonable and do not discriminate based on viewpoint. *Minn. Voters All. V. Mansky*, 138 S. Ct. 1876 (2018). Viewpoint discrimination is when speech is restricted based on the particular views taken by a speaker. *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819 (1995).

In short, forcing a visitor to cover up or remove their prolife attire, or kicking out a visitor for wearing prolife attire, is viewpoint discrimination. The Supreme Court calls it an "egregious form of content discrimination." *Id.* at 829. Federal buildings open to the public cannot force a visitor to remove an article of clothing that states his or her beliefs when the building allows another visitor to wear clothing on the same issue but from a different viewpoint. Every

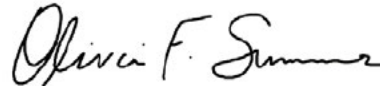
individual has the right to express their viewpoint. Restrictions on that right are unconstitutional and the ACLJ is ready to protect that speech.

With this in mind, we anticipate another successful March for Life, and that everyone will enjoy their time in the D.C. area. Thank you for the services your building provides for the public.

Sincerely,

A handwritten signature in black ink, appearing to read "Jordan Sekulow". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Jordan Sekulow  
Executive Director

A handwritten signature in black ink, appearing to read "Olivia F. Summers". The signature is cursive and elegant, with a prominent initial "O".

Olivia F. Summers\*  
Senior Litigation Counsel  
*\*Admitted in VA & DC*

AMERICAN CENTER FOR  
LAW & JUSTICE

