A Lawyer Conservatives Can Love

by Andrew Buttaro

Jay Sekulow and the American Center for Law and Justice have stood up for religious freedoms and freedom of speech for nearly two decades. They will be keeping an eye on President Obama’s Justice Department and court picks.

Conversely, a casual observer would be hard-pressed to notice the headquarters of the American Center for Law and Justice (ACLJ). Mere steps from the Court in a residential neighborhood favored by congressmen and Capitol Hill staffers, the legal outfit directs operations from a refurbished three-story townhouse. It's not ostentatious. But proximity is power in Washington, and the ACLJ couldn't get any closer to the nation's highest court.

It's a sign of how far the organization has come in just a short time. When it was formed in 1990, it was the brainchild of noted televangelist Pat Robertson and a relatively unknown lawyer named Jay Sekulow. Fast-forward almost two decades, and a lot more people recognize the latter as one of the top lawyers for religious freedom in the United States.

How Sekulow rose from obscurity to influence is a lesson in personal perseverance and a microcosm of the shift in American politics since the Reagan era. As with any success
story, though, there was also fortunate timing at work. Sekulow had worked real estate deals in Georgia after getting his law degree from Mercer University, but was drawn to a group called Jews for Jesus, in part, he says, “because I identify as a messianic Jew.” He became general counsel for the organization and soon found himself with every lawyer’s dream scenario: a case before the Supreme Court.

The dispute itself revolved around the proselytizing activities that Jews for Jesus engaged in at various public places, including airports. Los Angeles International Airport grew exasperated with the group’s solicitation of travelers and banned “all First Amendment activities” on its grounds. When one of the members of Jews for Jesus was arrested for defying the prohibition, the organization sued, and the case made its way to the high court.

Though Sekulow wasn’t a seasoned litigator, he proved a wise one in his read on the case. “I ran the case on a free speech basis, which was a remarkably different approach,” he says. “Usually cases like this were argued on free exercise of religion grounds, but I thought that First Amendment protections of free speech gave us more to work with.”

Sekulow won a unanimous victory in his first appearance before the court. His success assured it would not be his last. “It was after this case that Pat Robertson got the idea to open up a much larger legal center,” he says.

Robertson’s investment would pay rich dividends. Throughout the coming years, Sekulow won decisions that paved the way for public school students to form Bible clubs and religious organizations on school grounds, defended free speech rights of religious groups (and ensured that they received equal use of school facilities), and secured the right of minors to participate in political campaigns.

Political opponents surely hope that Sekulow is sitting on his laurels. The native New Yorker’s response is simple: Forget about it. “The big issue we’re facing now is the Fairness Doctrine,” says Sekulow, “and we have some different strategies to deal with it. First, we’re pushing to get an up-and-down vote on the legislative side to see where people stand, but we’re also planning legal strategies and have a regulatory approach to immediately contest the law if it passes.”

The Obama administration has weighed in against reinstituting the Fairness Doctrine (see “Silencing the Opposition,” February 2009), which would mandate equal airtime for differing points of view and would essentially be the death knell of conservative talk radio, but the new political scene presents a host of new challenges. Sekulow’s investment would pay rich dividends. Throughout the coming years, Sekulow won decisions that paved the way for public school students to form Bible clubs and religious organizations on school grounds, defended free speech rights of religious groups (and ensured that they received equal use of school facilities), and secured the right of minors to participate in political campaigns.

Political opponents surely hope that Sekulow is sitting on his laurels. The native New Yorker’s response is simple: Forget about it.

“The big issue we’re facing now is the Fairness Doctrine,” says Sekulow, “and we have some different strategies to deal with it. First, we’re pushing to get an up-and-down vote on the legislative side to see where people stand, but we’re also planning legal strategies and have a regulatory approach to immediately contest the law if it passes.”

The Obama administration has weighed in against reinstituting the Fairness Doctrine (see “Silencing the Opposition,” February 2009), which would mandate equal airtime for differing points of view and would essentially be the death knell of conservative talk radio, but the new political scene presents a host of new challenges.

“We’ve really got to gear up for battle here,” says Sekulow. “We’re going to see some shifts on the Supreme Court. I don’t know if they’re going to be significant enough to dramatically change the balance, but there will certainly be adjustments.”

“What kind of nominees will Obama appoint?” Sekulow asks. “I’m not going to speculate as to specific people, but look at the Justice Department he’s put together. Or look at his choice of solicitor general, Elena Kagan. This represents a very big change in judicial thinking. I’m not sure who will ultimately make it to the Supreme Court, but he’s certainly got his list somewhere.”

With the Democratic Party in control of Congress and the White House, conservatives might soften some of their criticism of George W. Bush. Especially on judicial issues, Sekulow sees the former president as a visionary. “The Bush judicial legacy is phenomenal,” he says. “Whenever conservatives get all up in arms about Bush, I remind them of two words—Roberts and Alito. They’ve completely changed the direction of the Supreme Court, there’s no doubt about it.”

“They key is, with all these challenges, we shouldn’t just be defensive. We have to think ahead to what will shift and plan accordingly.”

It’s that sort of proactive optimism that led the Chicago Tribune to write that the ACLJ has “led the way” in Christian legal advocacy. It’s what led Time to count Sekulow among the “25 Most Influential Evangelicals” and to list the ACLJ as “a powerful counterweight” to the ACLU. It’s what led BusinessWeek to describe the ACLJ as “the leading advocacy group for religious freedom.”

And it’s what will keep Obama’s Justice Department looking over its shoulder for the next few years.

Andrew Buttaro is assistant editor for Townhall.com and a contributing editor for Townhall Magazine.

Would you like to nominate someone from your state for the Townhall of Fame? Send us your pick at Feedback@Townhall.com.