

From: Joseph W. Bellacosa

(February 4, 2012)

Re: Free Exercise of Religion, First Amendment, U.S. Constitution

A faithful and practicing Roman Catholic for all of my 74 years, I retired in 2000 as the Senior Associate Judge of the New York State Court of Appeals (the State's highest Court), having been appointed in 1987 by then- Governor Mario M. Cuomo. In 2004, I retired again as Dean and Professor of Law at St. John's University School of Law.

I write to express my profound objection to the recent promulgation of regulations by Secretary of Health and Human Services, Kathleen Sibelius, effectuating the Chief Executive decision of President Obama. My First Amendment right to free exercise of religion, and those of millions of my fellow Catholics of this country should not be trumped in this fashion by mere regulations, nor even by policy-infused exertions of legislative implementation by agencies of the federal government. The express provision of the Bill of Rights is paramount, evidenced by the simplest, briefest and clearest expressions of the Founders of this Country, to wit, the bedrock principle of no governmental interference or prohibition on the personal free exercise of religion.

While I can appreciate a competing view of health policy, I discern no correlative appreciation for my Faith's beliefs. There is no justification for the President's and Secretary's failure to find an appropriate accommodation for those who are entitled to their constitutional protections. Thus, I am disappointed by the astigmatic process that has brought this Country to this unacceptable crossroads of "obey in a year or else, even if it violates your religious convictions."

This Country has been very good to me, a son of a naturalized citizen immigrant who got only to the third grade of his elementary school in Brooklyn before he had to start working to help his father. I love this Country and am grateful for the opportunities it has afforded me in education, and careers in public and legal academic services. Unlike the pilgrims who came here in the Sixteen Hundreds to find religious freedom, I have no other place to go, nor do I wish to go anywhere else. Nor, however, should my rights be marginalized at the expense of any special interests of a particular political ideology. Like St. Thomas More, the Chancellor of England, who lost his head to Henry The Eighth rather than be false to his moral compass, I say, too, "I am a good and faithful servant of the King ("cry, my beloved country", in this context), but God's servant first!"

The President and his Cabinet Secretary have by their recent actions diminished their oaths of office to protect and defend the Constitution that is designed to protect all the citizens of this Country. To add insult to the injury, these national

leaders issued an *in terrorem* ukase on the eve of the anniversary of **Roe v. Wade**. Whatever one's policy or jurisprudential position on that controversial Supreme Court decision, the timing of these regulations appears intentionally insulting or blindly indifferent. Simply as an ordinary and concerned citizen, I assert my opinion that, at the very least, their actions amount to a personal affront and a fundamental lapse in sound judgment.

My chagrin and even outrage are widely shared, as evidenced by the commentary and summarization, found in The Washington Post column on January 31, 2012 by Michael Gerson, entitled "Catholics betrayed". Its most dramatic and shocking observations, found at page A-17 of the Op Ed Section, are that "Both radicalism and maliciousness are at work in Obama's decision" and that "war on religion is now formally declared". When I took the chance to vote for Mr. Obama in 2008, I could not have envisioned such a blatant betrayal. At least I know now that I will not make that mistake again.

Bluntly, their in-your-face edict lays down a gauntlet that cries out for prompt remedial action, as has been proposed in Congress. The proposed amendment would at least respect and be in accord with the Supreme Law of the Land - the Constitution itself. In support of that effort, I am writing this kind of letter - something I have never done before - in a resolute spirit of solidarity with my new Bishop, William Lori, here in the Bridgeport Connecticut Diocese, and my former Archbishop, Cardinal-Designate Timothy Dolan of New York.

I earnestly and respectfully "petition" - another hallowed constitutional prerogative of any citizen - that Congress honor its corresponding oath of office and fulfill its responsibility to right this wrong. Congress shares an independent duty to protect my constitutional right to the free exercise of my religion, and the right of my fellow millions of Catholic Americans, especially those conscientiously providing health services to countless other Americans of all Faiths, as they have unselfishly done for decades of this Country's history.

To me, this issue transcends partisan politics and even politics itself. The Constitution protects all the people of this great country, and is the ultimate guardian of our rights, not those who are temporarily invested with governing authority, whoever they might be at a given snapshot in history. The Constitution starts with: "We the People", not "We the Special Interest People".

Respectfully submitted,

Joseph W. Bellacosa,  
(203 894 8454)

638 Danbury Rd., # 65,

Ridgefield. Ct., 06877  
([bellajwb@gmail.com](mailto:bellajwb@gmail.com))