

USPS Violates Man's Free Speech Rights

A Tennessee man was peacefully distributing Christian literature in front of an Oakland, Tenn., post office when he was arrested for trespassing. At the request of the postmaster, Michael Choate was arrested for handing out tracts on a public sidewalk 40 feet from the entrance of the building.

Alliance Defense Fund attorneys filed a lawsuit Friday against the United States Postal Service for the unconstitutional treatment of Choate. The ADF is a legal alliance of Christian attorneys and like-minded organizations defending the right of people to freely live out their faith.

"Christians shouldn't be arrested and silenced for peacefully sharing their beliefs on public property," says Nate Kellum, ADF senior counsel. "The post office isn't above the law and cannot take away citizens' constitutionally protected rights just because it or its customers might not agree with the content of someone's speech or literature. Our client isn't harassing anyone; he's simply desiring to quietly share his faith in a completely public forum."

Choate handed out tracts for two weeks in July 2010 in front of the Oakland post office without incident. He continued his peaceful activity on the public sidewalk about 40 feet from the building's entrance the following month, and was approached by Postmaster Terrena Moore. Moore ordered him to leave the property and threatened him with arrest. Choate tried to calm the postmaster down and said he would wait for the police.

Two police officers arrived within minutes. They ordered him to leave and said he would be arrested for trespassing if he

refused. Choate asked how he could be arrested for trespassing on public property, and the officers indicated that if the postmaster says a person is trespassing on postal property, that person is trespassing and must leave.

Choate, however, believed he still had the right to express his beliefs on public property and did not leave, so he was arrested on criminal trespassing charges, which were later dropped. He ceased his activities after the incident.

Several weeks later Moore pointed to a provision against “disturbances” and told Choate that some customers were annoyed by his behavior.

Last November ADF attorneys send a letter to the USPS on Choate’s behalf, explaining that he has the constitutionally protected right to distribute literature on public property in front of the post office and requesting assurance that he be allowed to continue his activities. The following month, a USPS attorney stated that under the provision cited by Moore, Choate would not be allowed to distribute literature if he “tends to impede or disturb Postal Service employees or customers....”

ADF attorneys contend in their lawsuit that the provision unconstitutionally gives postal employees “unbridled discretion to prohibit peaceful literature distribution anytime they or a customer finds Choate’s message or viewpoint objectionable.”

Garry J. Rhoden of Memphis, one of more than 2,000 attorneys in the ADF alliance, is assisting with the lawsuit *Choate v. United States Postal Service*, which was filed with the U.S. District Court for the Western District of Tennessee, Western Division.