

March 6, 2023

HB871 - FAVORABLE

Declaration of Rights – Religious Freedom, Religious Tests, and Oaths and Affirmations

Dear Chair Pena-Melnyk, Vice-Chair Cullison, and Members of the Health and Government Operations Committee,

My name is Linda Torcaso Bernstein. I am the daughter of Roy Torcaso, plaintiff in the landmark Supreme Court case of **Torcaso v. Watkins** that struck down the Maryland provision requiring any public office holder to declare that he or she believed in the existence of god.

Roy Torcaso died in 2007 at the age of 97. For almost all his adult life he provided notary public services. He used his notary commission extensively in his business affairs and also provided notary services from his residence to those in the surrounding community in Wheaton. In 1959, while working in a real estate office, his employer asked him to become a notary for the convenience of the office. Roy had been a notary public in Washington DC prior to that. Imagine his surprise when he went to pick up his commission and he was required to swear that he believed in the existence of god. He did a little legal research for himself and ascertained that this requirement was very likely to be held to be unconstitutional, if a challenge were brought. With the help of the ACLU, as well as Jewish, Catholic and Protestant groups he mounted such a challenge, ultimately successful in the US Supreme Court. It is noteworthy that such a wide spectrum of beliefs/non beliefs provided amicus assistance in his case.

It was held, and Roy believed, that the concept “Freedom of Religion” could not be limited to the those who professed a belief in god, but must extend to every individual. Freedom of Religion does not mean a person is free to choose from among a prescribed list of religions. How could the state even know what was meant by belief in god, for every believer has his or her own conception of the divine being? Is the state going to vet the belief? Certainly not. Buddhists, for example, do not profess such a belief. Atheists, of course do not.

Roy kept his notary commission active for the next 40 years, serving the public. Non believers and believers alike share in the benefits of our pluralistic society. It is high time for these outmoded credal tests to be eliminated from public life in the state of Maryland.

Respectfully,
Linda Bernstein



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