

David Alan Carmichael

June 22, 2007

Governor Tim Kaine
Patrick Henry Building
1111 East Broad Street
Richmond, Virginia 23219

Re: RELIGIOUS ACCOMMODATION REQUEST

Ref: Religious Accommodation Request Letter From David Alan Carmichael To Tim Kaine,
May 23, 2007

Dear Governor Tim Kaine,

I am forwarding a copy of a letter that Pierce R. Homer sent to me but apparently did not send to you. His letter is ill-advised and **did not address the “Religious Accommodation Request” referenced above**, nor was it in keeping with the obligations laid upon you as Governor, in the *Constitution of Virginia*, Article V, §7 & §8 (*Lex Rex*).

In the opening paragraph of his letter, Mr. Homer mischaracterized my request. My request was for a religious accommodation. Nowhere in his letter did Mr. Homer address the “Religious Accommodation Request.” He stated:

“DMV is bound by the laws that govern the requirements for application for driver’s licenses. These laws do not provide DMV or its Commissioner with the authority to waive the requirement that an applicant for a driver’s license provide their Social Security Number at the time of application.”

Firstly, the specific letter of a “Religious Accommodation Request” that Mr. Homer was responding about was not sent to the DMV or to the Department of Transportation. It was sent to you for reasons of authority and duty that I will mention herein. None-the-less, is the DMV actually limited only by those laws that we know as statute; limited to those statutes relating to motor vehicles; in complete exclusion of those statutes, rights espoused in Article I of the *Virginia Constitution*, and higher laws of nature and divine laws relating to religious duty and liberty? I know not if the Department of Motor Vehicles Commissioner and the Secretary of Transportation gave an oath to support, defend or uphold the *Virginia Constitution*. If they gave an oath to the *Virginia Constitution*, **they have a duty to interpose** when and whereby a statutory practice intrudes upon religious duty and liberty, especially when the statutory provision is for administrative convenience and is not imposed upon others for secular reasons. If it is actually true that the “DMV” does not have the authority to venture beyond the statutes of §46.2, it is not relevant to my particular “Request for Religious Accommodation” that I sent to you in your capacity as Governor.

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Mr. Homer cited “46.2-341.2 of the *Code of Virginia* and Article II, Section 2 of the *Virginia Constitution*” as law that prohibits the DMV from granting my request. Neither of those citations have anything to do with driver’s license applications. Mr. Homer did not cite any authority under the *Virginia Constitution*, nor did he address the *Virginia Constitution* authorities that I raised in my “Religious Accommodation Request.”

Yours is the place of interposition pursuant to the *Virginia Constitution*, Article V, §7. You have the obligation to ensure that your delegates are rightly applying law. Your delegates do not have the authority to violate the *Virginia Constitution* (fundamental law) with the excuse that they are narrowly applying statutory administrative law. Even more so, your delegates do not have the authority to violate the natural law, or even more so the divine law, cited in *Code of Virginia* §57-1 & §57-2.

Take note, Mr. Homer did cite a statute that relates to driver’s licenses, §46.2-323, and he cited it as the authority that restricts the DMV. However, §46.2-323, ¶B. that demands the association of a social security number (SSN) closes with the following statement “**The Commissioner may, on a case-by-case basis, waive any provision of such regulations for good cause shown.**” There is nothing in the statute to indicate that the SSN, or any other requirement of paragraph B. cannot be waived for good cause shown. In fact, the DMV has implemented that provision specifically to the SSN requirement, but for reasons other than “Religious Accommodation.” The DMV does not require association with a SSN from anyone who has never had their name associated with one. I cannot find a specific provision for that waiver in the motor vehicles laws, except for the statement in paragraph “B.” that says “**The Commissioner may, on a case-by-case basis, waive any provision of such regulations for good cause shown.**”

I see in the *Virginia Constitution*, Article V, §8 that you have the authority to require from Mr. Homer, “information in writing, under oath, from any officer of any executive or administrative department, office, or agency, or any public institution upon any subject relating to their respective departments.” It provides that Mr. Homer is limited to a writing to you, under oath, regarding any subject relating to his respective department. Mr. Homer’s sending a letter to me is outside his authority. I don’t see anything in that *Virginia Constitution* that indicates the Governor can subrogate his Constitutional obligations to one of his delegates. I sent my “Religious Accommodation Request” to you, the Governor, pursuant to the *Virginia Constitution*, Article V, §7 wherein it states, “The Governor shall take care that the laws be faithfully executed.” The term “law” includes all those elements of law that are. Firstly, divine law or revealed law, and Secondly natural law or the laws of nature. Those are referenced in the *Virginia Constitution*, Article V, §16 and *Code of Virginia*, §57-1 & §57-2, which I cited to you in my “Religious Accommodation Request” but which Mr. Homer did not address. Thirdly, the Fundamental law embodied in the *Virginia Constitution* wherein it conforms to divine law and natural law is superior in authority to statutes. Statutes cannot constitute law if they are not in submission to the fundamental law of the *Virginia Constitution*, and of course natural law and divine law referred to by the *Virginia Constitution*, Article V, §16 and *Code of Virginia* §57-1 & 57-2.

I need to modify the details of my request. I did not cite all the provisions of my “Religious Accommodation Request.” In the carrying out of my Christian ministry, I need to utilize

vehicles that qualify for the need of a commercial driver's license subject to the application provisions of Code of Virginia §46.2-341.12. I coordinated a relief ministry to victims of Hurricane Katrina. I had need to use a commercial vehicle to transport loads of supplies over 26,000 pounds but I could not do it because I was unable to secure a suitable vehicle because I did not have a commercial, let alone private, drivers license. It was a severe burden upon the ministry of our ecclesiastical body to not have the liberty to readily meet the needs of both our brethren in the Lord and those who might perish apart from our ministry to their physical needs and our conveying the grace of the gospel of our Lord and Savior Jesus Christ to them. Thus, I need a commercial license while the rest of my family needs only a private license.

Rather than go on with too much commentary, editorial or argument, let me get to some of the questions that are pending. It is advisable that you, pursuant to the *Virginia Constitution*, Article V, §8, request a writing, under oath, from the Attorney General regarding these issues:

1. By what authority does the DMV waive the SSN provision of §46.2, Paragraph B. for people who "do not have one" to quote the DMV manual? Is it the provision in §46.2-323, Paragraph B. that states "**The Commissioner may, on a case-by-case basis, waive any provision of such regulations for good cause shown?**"
2. Is there no provision in DMV procedures or statutes relating to them that provides for implementation of Article I, §16 of the *Virginia Constitution* or §57-1 & §57-2 of the *Code of Virginia*?
3. Is not Article I, §16 of the *Virginia Constitution* self executing?
4. Whereby *Code of Virginia* §57-1 & §57-2 states, "...nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge or affect their civil capacities"; is the §57-1 & §57-2 statute not self executing? Can it not mitigate other statutes that touch-upon or conflict-with religious freedom?
5. Does the Virginia General Assembly have the authority to diminish the civil capacities of those who cannot associate with the SSN on the basis of their religion?
6. Is not religion, or the duty that we owe the Creator, and the manner of discharging it, a good cause?
7. Does the governor not have the authority to interpose pursuant to the provisions of Article I, and Article V, Section 7 and on the basis of his oath and his natural obligations under the totality of law?
8. What is the "Interest" of government with regard to the association of people with an SSN:
 - a. In general?
 - b. As it relates to *Code of Virginia*, §46.2-323?
 - c. As it relates to *Code of Virginia*, §46.2-341.12?

9. Is it not a divine right, and natural right, to observe the first-century *Anno Domini* law to not associate with the number of the beast? Is that not a right reserved and enumerated in Article I, §17 of the *Constitution of Virginia*?
10. What provision of Virginia law obligates a man to claim a SSN as his?
11. Are there any Federal laws that bring obligations upon Virginia touching upon this issue, and by what authority pursuant to the *Constitution of the United States of America*?
12. Referring to Article I, §1 of the *Constitution of Virginia*, Am I not free and independent and have certain inherent rights, of which, when I enter into a state of society, I cannot, by any compact, deprive or divest my posterity, namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety?
13. What ought the Governor to do in light of *Horen v. Commonwealth*, 23 Va. App. 735, 479 S.E. 2d 553 (1997); and *Alexandria v. The Texas Company*, 172 Va. 209; and *Thompson v. Smith, Chief of Police*. Supreme Court of Appeals of Virginia. 155 Va. 367, 154 S.E. 579, 71 A.L.R. 604. Sept. 12, 1930?

Tragically, Mr. Homer's letter is merely a cookie-cutter bureaucratic side-step of the crucial questions that confront us in this issue. Please exercise due diligence to quash this threat to the liberties of us all. In the words of Martin Luther King, Jr., from the Birmingham jail, "Injustice anywhere is a threat to justice everywhere."

As I serve the Lord Jesus Christ; and as the magistrate is the servant of, and amenable to, the people; so I make myself available to serve you, a fellow servant according to the command of our Lord cited by the Gospel of Matthew, Chapter 25, Verses 31 through 46. To those who fear neither God nor men, but refuse to render justice against our adversary, I say, let the Lord find faith on the earth when He comes. Maranatha.

Sincerely,

Encl:

- (1) Copy of Pierce R. Homer, Secretary of Transportation Letter, June 20, 2007
- (2) *Code of Virginia*, §46.2-323, Paragraph B.

Cc: Attorney General of Virginia
Secretary of Transportation
Commissioner of Motor Vehicles