

The Vigil



American Civil Liberties Union of Tennessee

Spring 2003

ACLU-TN Holds Students' Rights Conference

The following was written by Ari Bloomekatz, a senior at Hillsboro High School in Nashville and an ACLU-TN intern during the summer of 2002. While at ACLU-TN, Ari's primary project was brainstorming and planning for ACLU-TN's first Students' Rights Conference. Below are Ari's thoughts about the Conference, which he attended.

On Saturday, February 1, ACLU-TN held its first-ever Students' Rights Conference at Hillsboro High School in Nashville. The Conference, titled "A Celebration of Your Freedoms," brought students together from 20 high schools and seven counties in collective dialogue and learning regarding their rights and responsibilities as students and minors.

The Conference opened with a video (written and directed by ACLU-TN intern Sara Glascock) depicting some of the potential civil liberties violations that public school students could face on a daily basis. These ranged from metal detectors, drug tests, prayer in school, racial profiling, newspaper sedition, and homophobia. After the video was over, ACLU-TN Board President Bruce Barry moderated a panel discussion addressing the video and discussing the legality of the actions depicted. Panelists included Susan Brooks, clinical professor of law at Vanderbilt University; Sheila Calloway, assistant juvenile public defender for Metro Nashville; David Hudson, research attorney at the First Amendment Center; and John Ferguson, First Amendment education coordinator at the First Amendment Center.

After the video, students split up into small workshops and discussed civil liberties concerns they had in their own schools. Each "speak-out" session was moderated by an expert and was closed to the media and other adults so that students would feel free to discuss concerns without fear of incrimination by their school communities. The focus of the sessions was for students to answer three main questions: First, what is happening at your school that makes you uncomfortable? Second, should this be happening at the school? And third, what can students do about the issue?

In each workshop, students created a list of the top three concerns shared by those in the group. For the most part, concerns dealt with the Pledge of Allegiance, zero tolerance policies and censorship. After the workshops, students reconvened in a large group and the panelists addressed these concerns and gave students information and insight on the issues.

The conference ended with a special performance by

Freedom Sings, a music censorship program produced by the First Amendment Center and featuring singer/songwriter Bill Lloyd and First Amendment Center Deputy Director Gene Policinski.

Unfortunately, students of my generation have been stereotyped as lazy and apathetic regarding their rights and responsibilities as citizens. However, this stereotype is hypocritical when the government and school systems do not provide students with the means and information to be active and involved.

For this reason, the conference was a huge success, and students walked away feeling empowered and energized. Students at the conference left wanting to put their newfound knowledge into action. Sasha Feotisktav, a senior at Martin Luther King Magnet in Nashville, is working on a student handbook and Student Bill of Rights for Metro Nashville's Interhigh Council. "It [the conference] was very informative," Feotisktav said. "I learned a lot about rights that we [students] have, that I really didn't know about before. I think a lot of students would like to know about these rights."

ACLU-TN Conference Opposed by Councilman

At ACLU-TN's Students' Rights Conference, a 90-minute "speak-out" session was closed to the media and other adults in order to provide a safe place for students to discuss their concerns. Adults and the media were permitted at all other sessions. However, a few vocal community members and Metro Council members spoke out against ACLU-TN and our "speak-out" session, accusing us of "indoctrinating" students and of "hiding something."

In response to our conference, Metro Councilman Jason Alexander introduced "a resolution requesting the Metropolitan Board of Public Education to prohibit organizations, such as the ACLU, from using public school property for the purpose of promoting and engaging in political activities." The Metro Legal Department issued an opinion that such action would be unconstitutional. As of press time, the resolution has been indefinitely deferred.

Message from the Executive Director

These are troubling times both at home and abroad. It is often during these times that civil liberties do not fare well. ACLU remains committed to protecting our constitutional guarantees and ensuring a safe and free society. In that spirit, ACLU-TN has launched its statewide Safe and Free Campaign, modeled after National ACLU's campaign. Across the state, we are meeting with law enforcement and immigrant communities to discuss civil liberties concerns; speaking with community groups and in classrooms about national security and civil liberties; sharing our "Know Your Rights" handbooks with immigrant groups and others subject to questioning by the police; distributing our recently written "Right to Protest" flyer to community groups; lobbying against legislation that would erode our due process, First Amendment, and privacy rights in the name of security; and recruiting ACLU attorneys to accompany Iraqis on FBI interviews. Never before has our work been as important as we speak out for the fundamental principles of freedom. Please regularly check our website (www.aclu-tn.org) and click the "Safe and Free" icon to learn what you can do to promote a safe and free society.

....Abu-Ali Abdur'Rahman is scheduled to be killed by the State of Tennessee on June 18. Please write Governor Phil Bredesen and ask him to grant clemency to Abu-Ali and commute his sentence to life in prison. Abu-Ali's case is a perfect example of the type of problems that happen all too frequently in capital cases. He had a lawyer who didn't do the work, a prosecutor who withheld evidence and misrepresented the facts, and a judicial system that did not provide for any meaningful review of the facts.

Write to: The Honorable Phil Bredesen, State Capitol, First Floor, Nashville, TN 37243.

....Over 65 high school students attended our first ACLU-TN Students' Rights Conference held in February, and over half volunteered to help plan next year's conference. It was incredibly exciting to be surrounded by articulate, thoughtful young people who wanted to know their rights and become active participants in their communities.

....ACLU-TN Board Member Abby Rubenfeld received the 2003 Equality Award from the Human Rights Campaign at its Tennessee celebration. Abby was recognized for her tireless advocacy on behalf of gay men and lesbians.

.....The nominating committee is now accepting recommendations from the ACLU-TN membership to fill at-large positions on the ACLU Board of Directors. Board members' responsibilities include setting and implementing organizational and substantive policy, actively participating in fundraising, representing ACLU-TN at programs, and attending quarterly board meetings. In addition to submitting names for consideration, actual nominations can be made by petition of any twenty members (include signatures on your petition). Suggestions for nominations should be sent to ACLU-TN Nominating Committee, P. O. Box 120160, Nashville, TN 37212, and should include information about the individuals and how they can be contacted. The deadline for submission is Monday, May 12.

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is published by the American Civil Liberties Union Foundation of Tennessee

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New Books by National ACLU Staff

Rachel King, the State Strategies Coordinator for the ACLU's Capital Punishment Project, recently has written Don't Kill in Our Names: Families of Murder Victims Speak Out Against the Death Penalty. The book presents the stories of ten individuals who oppose the death penalty even though each had a family member who was murdered.

King will be reading from and discussing her book on May 20th at 6 p.m. at Davis-Kidd Booksellers in Nashville (4007 Hillsboro Road).

ACLU Southern Regional Office Director Laughlin McDonald recently has written a new book titled A Voting Rights Odyssey: Black Enfranchisement in Georgia. The book explores and repudiates the myths of the Reconstruction era that blacks were incapable of voting and holding office.

Forming an ACLU High School Club

Last fall, several students organized an ACLU high school club at William Blount High School (WBHS) in Maryville. The following, written by WBHS senior and WBHS-ACLU Founders' Board member Thomas Walker, is an account of the details and challenges students face when they establish an ACLU club at their school.

In November 2002, certain aspects of my school began to change. There was a spirit of democracy and empowerment rising within the student body. Plans for an underground counter-newspaper to the established school newspaper were being shared, and there was a growing movement to form a Student Union to protect the rights of students and further the student agenda. It was then that we began to mull the idea of starting an ACLU club in order to create a forum in which ideas and opinions on civil liberties could be discussed, to provide information to students on their rights, and to aid them in protecting those rights.

Our first "campaign" was successful. Its aim was to spread awareness of the new club through meetings, discussions, and leafleting materials provided by the ACLU-TN office. The initial kick-off meeting drew nearly sixty students away from other homeroom activities. We had not expected so many students to exhibit an interest in an organization most known for "ripping the Ten Commandments off school walls, out of courthouses, and telling students they can't pray," as one student explained to us.

Throughout the meeting, three goals became apparent. First, we needed to clear up the misconceptions concerning the ACLU in order to gain legitimacy, to make allies, and to promote a more open and informed dialogue about the issues that faced us at the school. Second, we needed a way for students and faculty to inform ACLU-TN or us about civil liberties abuses in the school. Third, it was imperative for us to develop an organizational system for the sheer purpose of running the club.

The first of our missions was the easiest and, at the same time, the hardest. It was easiest in that misconceptions were easily cleared by question and answer sessions with students and by ACLU position papers and pamphlets. However, the free and open nature of the question and answer sessions was what also made the first mission our hardest. These forums prompted not only discussion, but also chaotic banter and unfocused conversation on civil liberties issues, which are often controversial issues. We were faced with the dilemma of "controlling" the conversation, while at the same time not infringing on anyone's right to speak freely or provide input. We were afraid that students' ideas and thoughts would never be heard as the result of structuring the conversation. If we tried to guide the conversations rather than let them freely guide themselves, then important issues such as

birth control being presented in the school curriculum and birth control options being available in the school clinic might never have been discussed.

Our second "new" mission was to provide students and faculty members a way to inform ACLU-TN or the club of any civil liberties abuses in the school. We went about setting up our "alert-system" in several ways. We launched an ongoing information campaign to make students and faculty aware of their options. We also set up an email address and advertised it so people may contact us. Finally, we advertised the many ways to contact ACLU-TN in our information campaign.

The third and final "new" mission was to establish the organizational structure of the club. What we had at the time we formed the club was a list of positions and brief duties, but no explanation of the duties and obligations of each position. We were able to work out these problems with a board of founding members. We drew on the idea of a balance of powers to explain the role of everyone in the club, viewing the general assembly as a Congress, the elected officials as what they are, and the Founders' Board as a judiciary body. This analogy helped guide us through the fleshing-out of our club constitution and organizational hierarchy.

The ACLU-WBHS originated as an organization intent on defending the civil liberties of every student and promoting their rights. The club intends to achieve a new set of goals, including the publication of a newsletter relevant to students' rights issues at William Blount and identifying community organizations of a similar philosophy or mindset to aid the club in its mission. The Founders' Board, in its entirety, ventured to the first ACLU-TN Students' Rights Conference as the only delegates from a school system outside of Middle Tennessee, and returned not only with new information, but renewed purpose and reaffirmed convictions.

As one of two ACLU-TN high school clubs in the state (the other is at Brentwood High School in Brentwood), the ACLU-WBHS must work toward the greater goal of spreading information about the ACLU throughout other school systems. Indeed, defending and promoting students' rights empowers students and ultimately assists the preservation of democracy not only in our schools, but also in our nation. The ACLU-WBHS works toward this goal each day.

Intern Spotlight

During the Fall of 2002, ACLU-TN was very fortunate to have Belmont University social work student Sara Glascock as an office intern.

Sara's work in the ACLU-TN office focused primarily on planning and organizing our first Students' Rights Conference (see page 1). Besides working on several essential planning details, such as identifying and securing a conference site, Sara conceived, wrote and directed an original 15-minute video titled "A Day in the Life of a Tennessee Public High School Student."

The video, starring area high school students, depicts many of the civil liberties violations a public school student could potentially face during the school day. Scenes include a teacher requesting that a Muslim student remove her head covering; a principal denying a lesbian couple permission to attend the prom; a police officer conducting random backpack searches; a teacher punishing a student for refusing to say the Pledge of Allegiance; and a teacher confiscating a Bible from a student who is reading it during lunchtime.

"If the video seems a little exaggerated," Sara said, "it is because I tried to cram as many civil liberty issues as I

could into it. I think everyone involved had fun pretending to either have their rights violated, or pretending to be the person violating rights. Of course, it's a shame that these kinds of violations actually happen in real life every day."

In addition to her work on the Students' Rights Conference, Sara also assisted with ACLU-TN's annual Bill of Rights Celebration and participated in our advocacy program by answering calls and letters from Tennesseans requesting assistance from ACLU-TN.

"My favorite thing about my internship was reading letters during intake and being able to send helpful resources back," Sara said. "When people come to the ACLU with problems they are experiencing in their lives, it shows how the ACLU can help on a local level."

Sara will graduate from Belmont in May with a major in social work and a minor in Spanish. She is currently looking into social service programs in South America to continue her Spanish education. Sara eventually plans to attend law school, where she will pursue a joint degree in social work and law.

Save the Date!

Wednesday, June 11—Sunday, June 15

ACLU Inaugural Membership Conference: "Stand Up for Freedom—Because Freedom Can't Protect Itself!"— Washington, D.C.

This year, ACLU will be holding its first-ever membership conference. Over four days in Washington, D.C., "card-carrying" ACLU members and ACLU staff and board members from across the country will convene to discuss civil liberties issues and learn strategies for addressing concerns in their states. The conference also will include a congressional lobby day. Special guest speakers and moderators include National ACLU Executive Director Anthony Romero, National ACLU Board President Nadine Strossen and Supreme Court Justice Ruth Bader Ginsberg. To register online, visit www.aclu.org and follow the registration links. For more information, call (212) 549-2561 or send an email to mem_conf@aclu.org.

... In the Communities



Anti-Discrimination Ordinance

Since November, ACLU-TN has worked with activists in the lesbian, gay, and transgendered communities to pursue an inclusive anti-discrimination ordinance for Metro Nashville. After receiving criticism that the original bill was too broad, sponsors Chris Ferrell and Eileen Beehan introduced a revised bill that would protect only Metro employees against discrimination based on sexual orientation. Our rationale was that this modest first step would allow Metro government to set an example through its own employment practices.

On April 1, after impassioned debate, the Council voted 18-18 on the second reading of the three necessary readings for the bill to pass; Vice-Mayor Howard Gentry cast the tie-breaking vote to defeat the bill that would ban discrimination of Metro employees based on sexual orientation.

While this defeat is disappointing, the 18 votes received is uplifting. Under the banner Equality YES, we are already planning the next campaign. Please help by sharing your stories with us about sexual orientation discrimination in the workplace. It is interesting to note that Nashville is the 22nd largest metropolitan area in the nation, and that 17 of the 21 metro areas larger than Nashville already have non-discrimination laws.

ACLU-TN Produces Students' Rights Guide

In conjunction with our recent Students' Rights Conference, ACLU-TN has prepared *Know Your Rights! A Guide for Public School Students in Tennessee*. This handbook covers four primary areas of concern to students: freedom of expression; freedom of religion; search and seizure; and discipline, due process and zero tolerance. The handbook was researched, written and designed by ACLU-TN Program Coordinator Amy Drittler, and is presented in a question-and-answer format.

To receive a copy of *Know Your Rights!*, please send a check or money order for \$3.00 to cover postage and handling to:

ACLU-TN
P. O. Box 120160
Nashville, TN 37212
(615) 320-7142

Fortune Telling in Dickson

Recently Dickson business woman Beth Daly contacted ACLU-TN regarding a Dickson city ordinance that makes it "unlawful for any person to conduct the business of, solicit for, or ply the trade of fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers." Daly owned a shop where she sold incense, candles, books and music. Daly regularly held tarot readings until she became aware of the ordinance, at which time she stopped her readings in fear of being fined or facing charges for her actions.

ACLU-TN sent a letter in late January to Dickson Mayor Don Weiss explaining how the ordinance violates the First Amendment guarantee of free expression (which includes the right to engage in fortune-telling and other similar practices) and asking the City Council to rescind the ordinance.

The Dickson City Council has continued to defer any decision on the ordinance and has yet to provide notice of their plans to ACLU-TN. If the city does not respond appropriately to our request to rescind the ordinance, ACLU-TN will consider legal action.

Roe v. Wade Activities

To mark the 30th anniversary of Roe v. Wade, the Supreme Court's landmark decision legalizing abortion, ACLU-TN, in conjunction with Planned Parenthood of Middle Tennessee and the Nashville Chapter of the National Organization for Women, sponsored a rally at Legislative Plaza in Nashville to show public support for a woman's right to privacy with respect to her reproductive choices.

In addition, an essay written by ACLU-TN Executive Director Hedy Weinberg entitled "Chipping Away at Choice" was published as the "Nashville Eye" submission for that day on *The Tennessean's* opinion page.

Also, the ACLU Club of the Vanderbilt Law School held a review of federal reproductive freedom law to mark the anniversary.

Legislative Update: Lobbying for Civil Liberties

The 103rd Tennessee Assembly convened in mid-January amidst a budget crisis. However, experience indicates that civil liberties battles continue during these crises, and this year promises to be no different. ACLU-TN will remain a tenacious force in the state legislature.

We have reviewed the over 2000 bills introduced, and we are now analyzing over 180 bills—developing position statements, organizing coalitions, and monitoring and lobbying these bills. In addition, we are meeting with new legislators to learn about their interests and to explain ACLU-TN's role in the legislature.

While ACLU-TN volunteer lobbyists Joe Sweat and Hedy Weinberg share the civil liberties perspective with legislators, **your elected officials need to hear from you.** You can stay up-to-date about the progress of key bills by joining our email alert list. You will get periodic alerts on pending bills in the State Legislature and in Congress as well as information on other activities affecting civil liberties. Send an email to aclutn@aclu-tn.org and enter "subscribe legislative alert" in the subject line. Please include your name and street address in your message.

Here are some key issues that ACLU-TN is working on this session:

Reproductive Freedom

Remove State Constitutional Guarantee for Abortion Rights—SJR127—Amends the State Constitution to add a new provision to Article 1 providing that nothing in the State Constitution secures or protects the right to abortion or funding.

This anti-choice initiative is a result of the successful ACLU-TN/Planned Parenthood lawsuit challenging restrictive provisions in the state's abortion statute. The Tennessee Supreme Court ruled that abortion is a "fundamental right" under the State Constitution. If SJR127 passes this session, the resolution would need to receive a 2/3 majority vote by both chambers the following session in order to appear on the state ballot in 2006. Were our State Constitution to be amended and were Roe v. Wade to be overturned, abortion could be made illegal in Tennessee.

Oppose

"Choose Life"—SB618/HB788—This bill authorizes a "Choose Life" specialty license plate in which 50% of funds are directed to New Life Resources, a thrift shop run by Tennessee Right to Life. This bill is an attempt to force Tennessee to take a political position on a controversial issue. The decision of whether or not to terminate a pregnancy is a personal one and should not be trivialized on a license plate.

Traditionally, specialty tags have been approved for education, the environment, children, and the arts. If the state

decides to politicize tags and permit one political slogan, then it may not pick and choose which issues to support. The First Amendment does not permit the state to discriminate on the basis of viewpoint. **Oppose**

Civil Rights

Racial and Ethnic Profiling—SB756/HB866—

Requires the State Highway Patrol and certain county sheriff and city police departments to collect specific information regarding all traffic stops and pedestrian stops by law enforcement. Data collection is a necessary first step in any effort to measure and combat racial and ethnic profiling. **Support**

Freedom of Speech and Association

Banning Certain Videos in Autos—SB176/HB591—

Prohibits exhibition of obscene or patently offensive videotapes within vehicles if visible to other drivers. The bill violates the First Amendment by regulating which materials individuals can view. While obscene videos are not protected by the First Amendment, patently offensive videos are not illegal and cannot be regulated within an individual's vehicle. The term "patently offensive" is subjective, vague and overly broad. **Oppose**

Criminal Justice

Capital Punishment Equal Protection Act—SB441/

HB409—Requires that uniform minimum standards be established by all district attorneys' offices. This bill is necessary because of the discretionary application of the death penalty across the state. **Support**

Death Penalty—Several bills have been introduced to highlight the inequities in the application of the death penalty. Our goal is to use these initiatives to increase support for a moratorium on executions in Tennessee.

A proposed **Death Penalty Fairness Committee (SB598/HB210)** would examine issues of access to justice, including research on innocent people on death row; racial, socio-economic, and geographical disparities; costs; adequacies of counsel; and prosecutorial misconduct. **Support**

Videotaping of Interrogation—SB1445/HB122;

SB343/HB1138—Requires electronic recording of custodial interrogations of criminal defendants. The second bill prohibits the statements from being admitted as evidence if electronic recordings were not made. These initiatives would ensure that suspects' due process rights are protected during interrogations. **Support**

Privacy

Social Security Numbers—SB3/HB177; SB58/HB451; SB107/HB289; SB156/HB1083; SB551/HB780; SB 804/HB775. (continued on next page)

Bill of Rights Day Activities

Last December, ACLU-TN held its first-ever Bill of Rights Day activities in honor of the anniversary of the ratification of the Bill of Rights to the U. S. Constitution (December 15, 1791).

On Monday, December 16, ACLU-TN members, board members and friends across the state distributed Bill of Rights bookmarks and "Safe and Free" buttons in their communities. Leafleting locations included the Green Hills Public Library in Nashville; outside the Arcade in downtown Nashville; the Public Library in Hermitage; the City-County Building in Knoxville; and the Downtown Post Office in Chattanooga.

In most locations, participants reported that the materials were generally well-received. However, ACLU-TN board

president Bruce Barry reported that in downtown Nashville, he estimated that fewer than 50% of passersby accepted the materials.

In Knoxville, ACLU-TN board member Paula Williams got an early start on the day by leafleting during the 8 a.m. hour. She greeted attorneys and individuals arriving for court proceedings with Bill of Rights bookmarks, which seemed to be much appreciated by recipients.

In Chattanooga, a local TV station aired a piece on ACLU-TN board members Buzz Sienknecht and Tom Biber leafleting outside of the downtown post office.

ACLU-TN plans to make its celebration of Bill of Rights Day an annual event. This year, we hope to expand our activities to more locations statewide.

Bill of Rights Celebration

Last November, ACLU-TN held its annual Bill of Rights Celebration in Nashville. We honored the plaintiffs and cooperating attorneys in our two Ten Commandments lawsuits, ACLU et. al. v. Hamilton County and ACLU et. al. v. Rutherford County.

Both lawsuits were filed to challenge Ten Commandments postings in public buildings as a violation of the Establishment Clause of the First Amendment. Last May, a federal district court judge ruled that the Ten Com-

mandments postings in Hamilton County public buildings were unconstitutional, and county officials subsequently removed the postings. Last June, a federal district court judge issued a preliminary injunction against the Ten Commandments posting in Rutherford County and ordered county officials to remove the plaque.

In addition, attendees were treated to a special performance by Grammy-nominated singer/songwriter Bill Lloyd.

("Lobbying" cont.) A number of bills are being considered that redact Social Security Numbers (SSNs) from public records, including hunting licenses, divorce petitions and health insurance cards. Access to SSNs threatens privacy rights; they are a virtual pass key to a vast amount of sensitive private information. Access to SSNs leads to fraud, improper prying, and identity theft.
Support

Lesbian and Gay Rights—SJR27—This resolution urges Congress to pass the pending federal constitutional amendment to define marriage "exclusively as a union between a man and a woman." National ACLU is determined to defeat the Federal Marriage Amendment, which also would invalidate all state and local domestic partnership laws and nullify civil rights protections based on marital status. This initiative promotes intolerance and would reverse the Constitution's tradition of protecting, not revoking, individual freedoms. **Oppose**

Please join ACLU-TN in fighting to keep our country both SAFE AND FREE.

Make a tax-deductible contribution to assist with our advocacy, litigation and public education programs:

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P. O. Box 120160
Nashville, TN 37212**

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ACLU-TN Around the State

- ACLU-TN Executive Director Hedy Weinberg spoke to the Tennessee Immigrants' Rights Coalition regarding the new post-9/11 INS special registration requirements.
- ACLU-TN Board Member Bruce Kramer participated in a symposium on religious freedom issues at Rhodes College in Memphis and discussed the right to protest with the Mid-South Peace and Justice Center.
- Weinberg discussed lesbian and gay rights issues at a meeting of Parents, Families and Friends of Lesbians and Gays (PFLAG) in Nashville.
- ACLU-TN Board Member Buzz Sienknecht spoke about the USA PATRIOT Act at a public forum at the University of the South in Sewanee and about the ACLU with students at Notre Dame High School in Chattanooga.
- Former ACLU-TN Board Member Sheri Lipman spoke to business school students at the University of Memphis about the ACLU.
- Weinberg participated in a panel discussion at the India Association of Nashville's 40th anniversary dinner and meeting. Weinberg spoke on the topic "Civil Liberties: Every Community's Rights and Responsibilities."
- Weinberg and National Board Representative Joe Sweat discussed ACLU issues and legislative strategies with Austin Peay social work students at the National Association of Social Workers (NASW)'s Legislative Day at the Tennessee General Assembly and with Memphis Planned Parenthood volunteers at their Day on the Hill.
- ACLU-TN Board President Bruce Barry spoke to the Christian Legal Society at Vanderbilt University Law School about religious freedom in the workplace.