

Americans United Brings legal Action To Halt Discrimination Against Wiccans By Veterans Administration

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When U.S. soldier Sgt. Patrick Stewart died in combat in Afghanistan, it was a life-shattering experience for his wife Roberta and the Stewart family.

When the U.S. Department of Veterans Affairs (VA) then refused to honor her husband with a memorial plaque engraved with the symbol of their Wiccan faith, Stewart's loss was greatly compounded.

"I was shocked and angered all at once," she told Church & State. "I was distraught and confused as well. This is America and my husband was a soldier who gave his life in defense of its principles."

Roberta and her late husband, residents of Nevada, followed the Wiccan faith, one that is nature-based and centers on living in harmony with other humans and the planet. It is a belief system that has a long history of being maligned by majority religions and tarnished with unflattering, outlandish stereotypes.

Stewart's husband, who also served in the first Gulf War and was stationed in Korea, has yet to receive a memorial marker engraved with the symbol of his faith.

The VA does not recognize the pentacle, an encircled, intertwined five-pointed star, as a faith symbol and, therefore, won't engrave it on memorial markers or gravestones of American war veterans.

Sgt. Stewart, 34, died on Sept. 25, 2005, along with four other crew members, including Chief Warrant Officer John Flynn, also a native of Nevada. Their Chinook helicopter was destroyed by a rocket-propelled grenade over Afghanistan.

When Stewart visits the Northern Nevada Veterans Memorial Cemetery in Fernley, a space remains on the Wall of Heroes where her late husband's plaque should be. Next to that space is a marker, engraved with a cross, for his crewmate Flynn.

Stewart said that when she first visited the cemetery she did so with Flynn's widow Christie, who was also hurt at seeing a blank space where Sgt. Stewart's memorial plaque should have been bolted. Both Stewart and Flynn requested that the Nevada veterans' cemeteries officials not fill Sgt. Stewart's space with the marker of another soldier.

Stewart and Flynn told cemetery officials that their husbands had died together, and that they "should be honored and laid to rest together."

As Church & State went to press, the space for Sgt. Stewart's marker still remained unfilled, even though Nevada officials announced in September that they would sidestep the VA and provide a marker engraved with a pentacle. Stewart said that the marker ordered for her late husband was produced by a contractor not used by the VA and was not similar to the memorial wall's other markers. She said that the VA has said it would allow the Nevada veterans officials to use their contractor to create Sgt. Stewart's plaque.

"I do believe that I will get my plaque," Stewart said, "but on a large scale I believe the VA will force litigation on this matter."

Stewart said she won't stop fighting until the VA recognizes the pentacle.

"I have had reporters and friends ask me why I continue to be prominently involved in this battle, now that I have indication that I'll receive the proper marker," Stewart said. "I choose to stay on the forefront for humankind, for America and the Constitution of the United States."

In August, Stewart and the Rev. Selena Fox, founder of one of the nation's largest Wiccan churches, the Wisconsin-based Circle Sanctuary, asked Americans United for Separation of Church and State to help them force the VA to stop discrimination against Wiccan veterans and active duty service members and their families.

Fox and Circle Sanctuary submitted an application in 2005 to the VA seeking inclusion of the pentacle on the list of approved faith symbols. After learning that the VA would not recognize the pentacle, Stewart, who has practiced Wicca for more than 15 years, asked Fox to help her try to get a plaque with a pentacle.

"I was in the process of trying to grieve for my husband," Stewart said. "That's when I contacted Circle Sanctuary."

Circle Sanctuary, which was founded in 1974, had already been working on behalf of other service members' families, some of them members of Circle Sanctuary, who wish to have their loved ones honored in keeping with the dictates of their spiritual beliefs.

After making trips to D.C. to speak with influential lawmakers such as Sen. Harry Reid (D-Nev.) and VA officials, including William F. Tuerk, under secretary for memorial affairs, Fox and Stewart turned to Americans United for additional help.

Americans United Executive Director Barry W. Lynn, who has spent decades fighting for advancement of the religious liberty rights of all Americans, said in a press statement announcing Americans United's involvement that VA officials' obstinacy is unconscionable.

“Religious freedom means all religions,” he said, “and it’s time for the department to stop discriminating and institute a policy that respects America’s great tradition of religious diversity.”

Although the Wiccan faith remains misunderstood and burdened with stereotypes, it is a burgeoning one, according to numerous studies. The Washington Post calls it “one of the fastest-growing faiths in the country.” A July 4 Post article on Stewart’s battle also notes that the Defense Department estimates that more than 1,800 Wiccans are serving in the military.

Americans United’s legal department sent two letters to the VA, demanding approval of the pentacle for use on markers, headstones and plaques.

In its Sept. 26 missive, Americans United Litigation Counsel Aram A. Schvey noted that the VA has had little difficulty approving other symbols of faith.

“More than nine years after the first Wiccan congregation applied to have the Pentacle added to the list of approved emblems of belief, the VA continues to claim that it needs additional time to approve new regulations,” Schvey wrote. “In the interim, it has approved the emblems of six other religions and belief systems.

“The Sikh emblem was approved in less than three months,” he continued. “And the Izumo Taishakyo and Christian & Missionary Alliance emblems were approved in about four months.”

On Nov. 13, after no movement by the VA to approve the use of the pentacle, Americans United filed lawsuits in two different courts to maximize its effort to halt the VA’s discriminatory practice. The lawsuits were lodged on behalf of Stewart, Circle Sanctuary, Karen DePolito, a Wiccan whose husband, Jerome Birnbaum, is a Korean War veteran who died last year, and the Isis Invicta Military Mission, a Wiccan and Pagan organization for soldiers.

Richard Katskee, assistant legal director of Americans United, joined Lynn, Fox and Stewart at Washington’s National Press Club to announce the lawsuits.

“The VA is apparently wedded to a policy of discrimination against thousands of service men and women who practice the Wiccan faith,” Katskee said. “This case is a battle to bolster religious freedom in this country. The VA is playing favorites among religious groups and violating one of this nation’s greatest freedoms. The VA’s tawdry treatment of its service members who are Wiccan must be dealt with.”

Fox told Church & State that after almost a decade of ignoring the requests of Circle Sanctuary and other Wiccan individuals and gatherings, that legal action was unavoidable.

“Members of Circle Sanctuary and members of other Wiccan churches are on active duty in the Army, Navy, Air Force, Marines, Coast Guard and National Guard,” she said. “They are serving in many places around the world, including in the War in Iraq and the War in Afghanistan. They have Wiccan identifications on their dog tags – and they also should have the right to have the Wiccan Pentacle on the VA-issued grave markers after death.”

Fox also noted that the Pentagon, other federal agencies and courts have recognized Wicca as a faith for many years now.

“It is a blatant violation of the U.S. Constitution for the U.S. Department of Veterans Affairs to pick and choose what religions and belief systems it will accommodate in the production of headstones, markers and plaques for veterans,” Fox said. “Other federal government agencies, including the U.S. Department of Justice and the Department of Defense, have accommodated the Wiccan religion along with other religions and belief systems for decades.”

Stewart’s confrontation with the VA has highlighted once again society’s misunderstanding of Wicca. In many corners of society, an ingrained suspicion remains of those who celebrate beliefs outside the world’s major religions.

Wicca’s roots, which include traditions from the ancient Celts, pre-date Christianity. Circle Sanctuary says Wicca encompasses “love and respect” of nature and strives “to live in harmony with the rest of the ecosystem.”

For almost a decade, Wiccan groups such as Circle Sanctuary and individuals such as Stewart have urged the VA to relent and allow the pentacle to be engraved on headstones, markers and plaques of Wiccan service members.

Stewart has been told by Nevada veterans officials that her husband soon will receive a marker engraved with a pentacle to be placed at the Northern Nevada Veterans Memorial Cemetery. A space for Sgt. Stewart on the Wall of Heroes has been blank for more than a year.

Sgt. Stewart, a native of Reno, had returned to active duty as a member of the National Guard when he was deployed to Afghanistan. He had also served in the first Gulf War and, following his death in Afghanistan, the military awarded him the Air Medal, the Bronze Star, the Purple Heart, the Nevada Distinguished Service Medal and the Combat Action Badge.

The VA, although apparently not interfering with Nevada state officials’ attempts to provide a pentacle-engraved plaque for Sgt. Stewart, has yet to officially recognize the Wiccan emblem. Americans United’s lawsuits were lodged because the VA remains obstinate.

The VA has a list dubbed the “Available Emblems of Belief for Placement on Government Headstones and Markers.” It contains 38 symbols that are permissible for use on military-issued markers and gravestones of its lost service members. Various symbols of Christianity, the nation’s majority religion, along with a slew of other less-known religions and philosophical perspectives are included.

The approved list includes symbols for atheism, Sufism Reoriented, the Konko-Kyo faith, humanism, Eckankar and the United Moravian Church.

Throughout the year, Stewart’s battle has drawn widespread media attention and support from Nevada state and federal politicians and various civil liberties groups.

Newspaper editorials around the country have also weighed in on the matter. In the summer, the Chicago Tribune slammed the VA’s slow response, stating, “Sgt. Stewart did his duty. It’s time the VA followed suit.”

The Los Angeles Times, in a July 15 editorial, pointed out, “As the Supreme Court has noted repeatedly, religious freedom in this country is enjoyed not only by members of mainstream faiths but also by adherents of unusual or even unpopular religions, who in seeking to secure their legal rights have expanded religious freedom for everyone.”

The row over the pentacle even garnered support from some Religious Right groups.

Writing in Christianity Today, John Whitehead, founder of the Rutherford Institute, said, “Whatever one’s opinion might be about the Wiccan faith, there should be no doubt in anyone’s mind that the First Amendment to our U.S. Constitution provides for religious freedom for all individuals of all faiths – whether they are Christians, Jews, Muslims, atheists, Wiccans and others.”

Stewart told Church & State that besides getting overwhelming support from military personnel, Nevada lawmakers have argued for the VA to dissolve its stubborn stance.

“I have had a phenomenal amount of support from the entire state of Nevada,” she said.

Indeed, Gov. Kenny Guinn (R) and Tim Tetz, the executive director of the Nevada Office of Veterans Services, have also urged the VA to provide Sgt. Stewart with a memorial marker engraved with a pentacle. U.S. Sen. Harry Reid (D) and U.S. Rep. Jim Gibbons (R) have also written to the VA on Stewart’s behalf.

Tetz told The Washington Post, “Sergeant Stewart and his family deserve recognition for their contributions to our country.”

In the face of bipartisan and high-profile pressure, however, the VA has continued to say that it is revising policies for how it determines what symbols of faith it will add to its list and won’t act on the Wiccan request until that process is finished. However, Americans

United, Circle Sanctuary's Fox and others note that the VA has approved other emblems of faith during this interim period.

"In 2004, the U.S. Department of Veterans Affairs expedited the approval process for the Sikh emblem of belief so that a Sikh soldier killed in action could have his emblem of belief on his headstone at Arlington National Cemetery in time for the family's visit there in mid-June," Fox told Church & State.

The VA has offered few clues as to why it is experiencing such difficulty with the pentacle. Some observers have suggested the VA is concerned that approval during a time of heightened media attention could draw the wrath of influential evangelical Christian groups.

In 1999, after grumblings from the Religious Right, politicians in Washington sought to halt Wiccan rituals and gatherings by military personnel. (In 1984, Fox helped the Pentagon update the U.S. Army Chaplains Handbook on Wicca and how it can be accommodated. The handbook states that "the core ethical statement of Wicca, called the 'Wiccan Rede,' states 'an it harm none, do what you will.' The rede fulfills the same function as the 'Golden Rule' for Jews and Christians")

More than a dozen Religious Right lobbying groups had urged the Army to stop Wiccan service members from performing rituals on bases.

Paul W. Weyrich, head of the Free Congress Foundation, told the Associated Press in summer 1999, "Until the Army withdraws all official support and approval from witchcraft, no Christian should enlist or reenlist in the Army, and Christian parents should not allow their children to join the Army."

Weyrich was joined by other influential Religious Right outfits, including the Traditional Values Coalition and the American Family Association, in calling on Congress to rid the Army of Wiccans.

Then-U.S. Rep. Bob Barr (R-Ga.) wrote to top military commanders at a base in Texas arguing that soldiers should not have been permitted to celebrate the vernal equinox. Such celebration, Barr wrote, "sets a dangerous precedent that could easily result in the practice of all sorts of bizarre practices being supported by military under the rubric of 'religion.'"

Then-U.S. Sen. Strom Thurmond (R-S.C.) also jumped on the anti-Wiccan bandwagon, likening the faith to "Satanists and cultists." During that time, George W. Bush, then governor of Texas and contemplating a run for the White House, told ABC News that he did not believe "witchcraft is a religion" and said he hoped the military would stop accommodating Wiccan rituals.

The VA's support of a discriminatory policy may be rooted in its fear of re-kindling Religious Right animus.

The department's obstinacy over the pentacle, however, has greatly aggravated the grieving and healing process for Roberta Stewart and many other family members of fallen soldiers of the Wiccan faith. But it has also emboldened her.

"I hope this process opens the eyes of Am-ericans," Stewart said. "They need to un-derstand that our government is at-tempting to limit our constitutional rights. I hope Americans watch and learn how vi-tal our Constitution is to this country."
