# MY RIGHTEOUS INDIGNATION

I have received a copy of the General Conference **PLAINTIFFS' RESPONSE TO DEFENDANT'S AND LUCAN CHARTIER'S OBJECTIONS TO REPORT AND RECOMMENDATION,** filed February 18, 2011. The Report and Recommendation was filed December 23, 2010.

The document is long and detailed, citing about thirty-seven prior court cases. I am not qualified to draft a legal analysis of the response in full, though I have enough spiritual and mental capacities to point out areas of gross error and/or maliciousness. For these reasons, I herein convey *MY RIGHTEOUS INDIGNATION* respecting the arguments and allegations set forth.

The following paragraphs in smaller font represent the text of the document that requires my comments that are interspersed in red-colored font:

> The language used, legal analysis, and research involved in Chartier's objections make it appear highly likely that Chartier did not write his objections on his own, but rather had the assistance of an attorney. (p. 18)
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> […] Chartier should not be allowed to enjoy the benefits of a pro se litigant while also enjoying the benefits of an attorney's assistance. Accordingly, Chartier should be required to declare under penalty of perjury whether he had a ghostwriter. Assuming that he did, the undisclosed attorney who drafted the Objection should be ordered to promptly file a notice of appearance and represent Chartier outright, or Chartier's Objection should be stricken in full. (p. 19)

The General Conference attorney's "ghostwriter" allegation is a gross exaggeration and founded on the sandy ground of "make it appear highly likely" that an attorney wrote out Chartier's objections. This shows a continuation of the notion that Mr. Chartier lacks mental abilities to think or act for himself.

> Chartier's objections essentially ignore his defective *prima facie* case and attempt to fault Magistrate Judge Bryant for making the very inquiries that were required to assess the evidence related to this *prima facie* case. The difference between inquiring into the *validity* (or truth) of a purported religious belief and the *sincerity* and *religious nature* of that purported belief is subtle but crucial. Chartier's objection is premised upon a failure to grasp this important and dispositive distinction.

It is highly unlikely that the Magistrate Judge himself made "this important and dispositive distinction" during the hearing. I believe this contrivance of *validity* of a purported religious belief versus the *sincerity* of said belief was purely made on the part of General Conference attorneys.

> As the Supreme Court "hasten[ed] to emphasize" in an oft-quoted passage from United States v. Seeger, "while the 'truth' of a belief is not open to question, there remains the significant question whether it is 'truly held.' This is the threshold question of sincerity which must be resolved in every case. It is, of course, a question of fact[.]" Probing a claimant to determine whether the claimed belief is *truly held* is not the same as determining whether the belief is true. In this case, that probing revealed that Chartier's purported belief was not truly held.

The General Conference attorneys failed to show that Pastor McGill's belief was not "sincerely held" or a "religious belief" during the district court proceedings. As the result, they were cornered at the 6th Circuit Court of Appeals, when the panel of judges published the undisputed fact of McGill's sincerely-held religious belief, triggering a discussion of the RFRA claim. The General Conference counsel, fearing another round at the 6th Circuit on the RFRA, decided to bring a contrived "question of fact" into the testimony of Mr. Chartier.

> Moreover, mere sincerity is not enough. In order to satisfy the *prima facie* case under RFRA, the sincerely-held belief at issue must be a *religious* belief rather than a philosophy or way of life. When a practice is not obviously based on religious belief, inquiry is entirely (p.23) appropriate.
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> [...] Merely inquiring into whether the claimed belief is of a *religious nature* is not the same as passing upon its validity. In this case, that inquiry disclosed that the purported belief at issue was not of a religious nature.
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> [...] Even if the RFRA defense is considered, it fails on the merits because Chartier did not prove the elements necessary to trigger strict scrutiny under RFRA. Magistrate Judge Bryant properly so recommended, and this Court should so find.
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> Magistrate Judge Bryant made two factual findings, each of which independently negate Chartier's *prima facie* case and properly end the RFRA inquiry. First, Magistrate Judge Bryant found that the asserted belief was not sincerely held, but was merely an insincere "cover" for Chartier's true motive - a desire for "martyrdom." Second, Magistrate Judge Bryant found that, even if sincerely held, the asserted conviction was not a religious belief, but merely a personal philosophy or attitude. These findings are amply supported by the record, and should be adopted by this Court. (p. 24)

The General Conference attorney fabricates an "inquiry" that was not being consciously executed by the judge. There was no such investigation of a RFRA *prima facie* case during the December 2010 contempt hearing. Mr. Chartier had not raised any defense in his behalf during either the May or December hearings. Consequently, RFRA was not in the mind of the Magistrate Judge, and Attorney Charles Holliday recalled the judge saying at some point and at some time, "that boat has already sailed on them" and specifically, in the motion hearing of December 16th, Judge Bryant said, "And again, I think the train's left the station on that one as well today." (Motion Hearing Transcript, p. 42) During the December hearing the Judge was trying to ascertain whether Mr. Chartier was being led and controlled by Pastor McGill, and to what degree. He said in his December R&R, "With some understanding of his youth, his misguided efforts and the instructive influences of Defendant McGill, this Court has been most lenient, even permitting Mr. Chartier *not to answer questions that he determines conflict with his beliefs*. This Magistrate Judge has had no interest in providing this young man opportunity for a degree of 'martyrdom' by recommending jail as a sanction." (p. 3; emphasis added) During the May 2010 contempt hearing, Magistrate Judge Bryant said to Mr. Chariter, "...it is certainly not this Court's desire to sanction someone who believes as strong as you believe [...] or come across that I'm trying to limit your practice of religion...I know you look to God ultimately…."

> […] Magistrate Judge Bryant made the finding that Chartier's actions were not the result of a sincerely held belief, but due to his desire for martyrdom. This Court should adopt that finding. Although Magistrate Judge Bryant in his December 2010 R&R never explicitly stated, "I find Chartier's purported religious belief to be insincere", he clearly questioned the sincerity of Chartier's purported belief; Chartier admitted as much. (Tr. p. 31, lines 13-17). Magistrate Judge Bryant further demonstrated his finding to this effect by placing the word *believes* within quotes to indicate that he did not agree that *believes* was an accurate characterization of Chartier's claimed "belief."

The Motion Hearing Transcript (pp. 39, 40) records Judge Bryant speaking to Attorney Holliday, "I appreciate your effort to find out if there is any [...] compromise ground here. And I don't see any. I just don't − I hope maybe there might be something, because it's a difficult situation to sit up here at this bench and see people that I believe are sincere, but yet they're sincerely wrong from a legal standpoint and I think misinterpreting the law in their minds and effort to good cause."

On pages 41 and 42 of the transcript, Attorney Holliday is quoted, "And I think that [Mr. Chartier has] testified that he has a sincerely-held religious belief that obeying this injunction would violate that belief; it would be a substantial burden on his belief, and that complying with that injunction would substantially burden − in fact, he went beyond that, and that this was not the least restrictive means. So I would just raise that I think on his behalf Pastor McGill would want

me to argue that the Religious Freedom Restoration Act bars the injunction." Now, notice what follows immediately (p. 42): "THE COURT: Well, you know, we've been through this once before and he didn't raise at that point … MR. HOLLIDAY: Pastor McGill didn't − THE COURT: I'm talking about the witness [Mr. Chartier] in our previous hearing when we recommended to the Court he be found […] in contempt of court in that hearing, he didn't raise that specifically. **And again, I think the train's left the station on that one as well today**."

> Magistrate Judge Bryant had the opportunity to observe Chartier's demeanor, body language, and tone of voice in order to assess his credibility. Further, Magistrate Judge Bryant directly confronted Chartier about his apparent insincerity and his true motive, stating "I get a sense here that you just want to create yourself into a martyr and would love nothing more than the court to punish you in some way that you can go on the Internet and pretend to be some sort (p. 25) of religious martyr, which you're not." (Tr. p. 25, line 25 to p. 26, line 5). Despite ample opportunity, Chartier never denied this.

The General Conference attorney admits Judge Bryant never "explicitly stated," "I find Chartier's purported religious belief to be insincere." Obviously, the attorney erects the notion from his own flawed and self-serving interpretation.

Is it to be assumed that a *pro se* defendant possesses the expertise to know when to speak and when not to speak in the presence of a magistrate? Mr. Chartier merely manifested a humble presence, respecting the office of the magistrate's seat. Had the Judge queried Mr. Chartier, the denial would have been elicited. After all, the Court and Plaintiffs have styled Mr. Chartier as a "misguided youth." He certainly deserves the benefit of the advantages offered a *pro se* litigant.

> Magistrate Judge Bryant then repeated "And I think that all along that you wanted to be set up to be a martyr so you can go on the Internet somehow and become some sort of celebrity with what you're doing." (Tr. p. 28, line 6-9). Even after this second explicit challenge, Chartier again never denied this motive. Thus, Magistrate Judge Bryant in his Report found that "it appears [Chartier] seeks a passive confrontation with the Court" in an effort to achieve "a degree of 'martyrdom'[.]"

The General Conference attorney distorts the meaning of Judge Bryant's words. Here is the exact sentence from the R&R at page 3: "This Magistrate Judge has had no interest in providing this young man opportunity for a degree of 'martyrdom' by recommending jail as a sanction." To assert that Mr. Chartier was seeking martyrdom is a stretch at best and a misapplication of the Judge's construction. If Mr. Chartier was seeking "a degree of 'martyrdom'," why did Chartier even bother to file a *pro se* objection to the R&R? The recommendation of the magistrate was jail time as a sanction. It defies reason and simple logic to aver that Mr. Chartier sought jail time when he went to great lengths in drafting an objection with the RFRA claim. The General Conference attorneys are now joining Magistrate Judge Bryant in concocting "imaginative inventions" of their own.

> Magistrate Judge Bryant, who was in a superior position to evaluate Chartier's credibility, simply saw through his insincere claims to his true motivation and did not believe his self-serving testimony. Whether Chartier's true motive is viewed as a misguided effort at self effacement, or merely as self-promotion, neither is a sincerely held belief – let alone a sincerely held religious belief. Chartier's desire for conflict and punishment is just that - a want, a hope or a desire. It is not the same as a belief.
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> In order to satisfy the *prima facie* case, a belief must not only be sincere but also be a *religious* belief rather than a philosophy or way of life. General Conference Corp. of Seventh-day Adventists, 617 F.3d at 410. A personal philosophy, even if sincerely held, is not a religious belief.
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> The relevant question is whether the belief is a religious belief that is sincerely held as opposed to merely a personal preference. [...] Purely personal preferences are not protected, and whether the belief is of a religious nature is a fact issue. (p. 26)

Besides the statement made by Judge Bryant in the May 25, 2010 contempt hearing quoted above, the fact that Mr. Chartier consistently disobeys the Court's orders, in the face of potentially serious sanctions being issued against him, serves as reasonable evidence that Mr. Chartier holds a religious *conviction* instead of a "purely personal *preference*."

> […] In Vetter, a plaintiff's stated desire to live in a Jewish community was determined by a factfinder to be a personal preference rather than a religious belief, and the plaintiff's claim of protected status therefore failed, 120 F.3d at 752. Chartier's purported belief is much less religious in nature than the belief at issue in Vetter, and was properly rejected by Magistrate Judge Bryant.
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> Even if Chartier's purported belief were sincerely held – and it is not – it is not a religious belief, but is merely a personal philosophy or "attitude." (See Tr. p. 25, line 25). It is nothing more than a personal political philosophy regarding the separation of church and state. (See Tr. p. 33, line 22 to p. 34, line 1). Chartier's view is essentially nothing more than a political statement that could be argued by secular groups ranging from the American Civil Liberties Union to People for the American Way without any reference to religion. Regardless of the "truth" of Chartier's philosophy (i.e., whether such separation is or is not a "good" idea), it is not a religious belief but merely an unprotected personal philosophy.
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> Chartier's claimed personal philosophy is suspect under the circumstances of this case. Chartier claims he is entitled to disobey any court order and to refuse to cooperate with any attempt to interfere with his continued use of the name "Creation Seventh Day Adventist Church." This view is, by his own admission, based in part upon the Plaintiffs' "current trademark litigations with other groups." (See Tr. p. 31, lines 11-12). Chartier offers it as a basis to simply refuse to answer questions regarding McGill in this trademark litigation. (See Tr. p. 22, lines 11-12). This was noted by Magistrate Judge Bryant who pointedly omitted the word *religious* when he referred to Chartier's beliefs. (See Tr. p. 45, line 8). Chartier's personal (p. 27) philosophy is ultimately nothing more than a litigation tactic, not a religious belief and therefore not entitled to protection under RFRA.
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> Magistrate Judge Bryant properly concluded on the record before him that Chartier failed to prove the *prima facie* case that is required under RFRA because he failed to prove a (1) sincerely held (2) religious (as opposed to personal, political or philosophical) belief. These factual findings by Magistrate Judge Bryant should be adopted by the Court as stated herein. Of course, when dealing with intangibles such as sincerity, belief, and religion, choice of language is sometimes difficult and inexact. Accordingly, should this Court be of the view that this issue must be reached on the merits and different language should be used, it should modify these findings as appropriate, or in the alternative, remand the matter to Magistrate Judge Bryant for clarification. (p. 28)

Let me repeat; During the May 25, 2010 contempt hearing, Magistrate Judge Bryant said to Mr. Chartier, "...it is certainly not this Court's desire to sanction someone who believes as strong as you believe [...] or come across that I'm trying to limit your practice of religion...I know you look to God ultimately…." By this statement alone, it can be seen that Judge Bryant perceived Mr. Chartier's "strong" belief in context to "religion." With this admission, it must be concluded that Mr. Chartier has verified and validated his "sincerely-held" "religious belief."

For the reasons stated in my comments above, I have expressed *MY RIGHTEOUS INDIGNATION* toward the far-fetched, erroneous, and deplorable fabrications and misapplications generated by the General Conference attorneys. The Plaintiff General Conference Seventh-day Adventist organizations, in tandem with their worldly lawyers, have demonstrated and proven, beyond any shadow of doubt, their true motives and spiritual declension yet another time.

"Love worketh no ill to his neighbour: therefore love is the fulfilling of the law." (Rom. 13:10)
"Dearly beloved, avenge not yourselves, but rather give place unto wrath: for it is written, Vengeance is mine; I will repay, saith the Lord." (Rom. 12:19)

Writing from Africa
February 26, 2011
Pastor "Chick" McGill