

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**JOSEPH RAYMOND HANAS,**

Petitioner,

vs.

Case No.

**GENESEE COUNTY ADULT  
PROBATION DEPARTMENT,**

Hon.

Respondent.

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**MEMORANDUM IN SUPPORT OF  
PETITION FOR WRIT OF HABEAS CORPUS**

## **INTRODUCTION**

This is Petitioner Joseph Raymond Hanas' Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254. Petitioner Hanas is serving probation under an order of the Genesee County Circuit Court dated March 13, 2003. This criminal sentence was imposed on Petitioner Hanas in violation of his right to free exercise of his religion under the First Amendment, U.S. Const., Amend. I., and in violation of the First Amendment's Establishment Clause.

After pleading guilty to possession of marijuana with intent to deliver, Petitioner Hanas was assigned by the Genesee County Circuit Court, under its "Drug Court" program, to residential substance abuse rehabilitation at the "Inner City Christian Outreach Residential Program." The residential program was operated by a pastor of the Pentecostal sect. While enrolled in the Inner City Christian Outreach Program, Petitioner Hanas was prohibited from practicing his religious faith, Roman Catholicism. His prayer book and rosary were confiscated, and he was barred from seeing his priest and his deacon. The program actively sought to convert Hanas to the Pentecostal faith, immersing him in hours of daily bible study and forcing him to attend Pentecostal religious services. The pastor running the program said that Hanas would have to proclaim that he had been "saved" in order to successfully complete the program, and that Hanas had given up his freedom of religion when he entered the program.

When Hanas returned to the Drug Court to complain that his constitutional rights had been violated and to request assignment to a secular program, he instead was removed from the Drug Court and sentenced to imprisonment and probation. Hanas' appeals in the Michigan courts, and his Petition for Certiorari in the U.S. Supreme Court,

were denied. The state court rulings in this case were contrary to, and involved an unreasonable application of, the U.S. Supreme Court decisions interpreting the First Amendment's Free Exercise Clause, *Employment Division v Smith*, 494 U.S. 872, 877 (1990), and Establishment Clause, *Lee v Weisman*, 505 U.S. 577 (1992).

## **STATEMENT OF MATERIAL PROCEEDINGS AND FACTS**

### **PROCEEDINGS IN THE TRIAL COURT**

In February, 2001, Joseph Hanas pleaded guilty to the charge of possession of marijuana with intent to deliver in the Genesee County Circuit Court. (Exhibit C, appended hereto). The Judge placed Hanas in the Drug Court program, under which the charges against him could be dismissed if he successfully completed a supervised twelve to eighteen month rehabilitation program. In January, 2003, after he was ticketed for possession of alcohol, Hanas was assigned to a residential program called the Inner City Christian Outreach Residential Program ("Christian Outreach"). (Exh. A, Tr. Of Jan. 24, 2003 Hrg., pp. 5-7, 10). Christian Outreach was presented to Hanas as his only option if he wanted to remain in the Drug Court program and avoid incarceration. (Apparently there were other residential programs that charged fees; however, Hanas could not afford them and neither the Court nor Hanas viewed them as available alternatives. (Exh. B, Tr. of Feb. 27, 2003 Hrg., at p. 17)<sup>1</sup>

Soon after Hanas began his program at Christian Outreach he realized that the program, operated by Pastor Rottier, a clergyman of the Pentecostal Church, was pervasively religious. Hanas is a practicing Roman Catholic. The staff at Christian

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<sup>1</sup> The Circuit Judge later had this to say in explaining Hanas' placement in Christian Outreach: "He could get into this program without any money. There were other options, but he didn't have any money. He couldn't pay -- he couldn't pay the fee. One of the programs is a \$300 fee. He couldn't come up with the \$300." (*Id.*)

Outreach told Hanas that Catholicism was a form of “witchcraft.” (Exh. C, Tr. of March 13, 2003 Hrg., pp. 32-33; See Exhibit I, Affid. of Chris Hanas, ¶ 8). The Christian Outreach staff confiscated a rosary and a Holy Communion prayer book that Hanas’ mother had given him. (Exh. C, pp. 32-33; Exh. I, ¶ 7) Hanas was prohibited from seeing his priest, despite his requests to do so.<sup>2</sup> (*Id.*; Exh. I, ¶¶ 6, 7; Exh. J, Affid. of Diane Kropelnitski, ¶ 2). A relative who contacted Christian Outreach to try to make arrangements for Hanas’ deacon to visit him was told by Pastor Rottier that Hanas “gave up his right of freedom of religion when he was placed into this program.” (*Id.* ¶ 2)

During his stay at Christian Outreach, Hanas was systematically indoctrinated into the Pentecostal faith. He was required to study the bible for seven hours a day. (Exh. C, pp. 38-39; Exh. I, ¶ 10). Hanas was required to attend regular Pentecostal religious services. He was also given tests on Pentecostal principles. When Hanas unwittingly violated one of the church’s rules, he was forced into a three-day “word fast” during which time he was required to remain silent and read the Bible continuously. (Exhibit I, ¶ 9). Initially, Petitioner Hanas’ mother was not permitted to speak with him except when she attended Pentecostal church services; later she was barred from attending the services at all. (*Id.*, ¶¶ 11, 12).<sup>3</sup>

Hanas was made to understand that he would not successfully complete the Christian Outreach program unless he converted to the Pentecostal faith. At one of the Wednesday night religious services, Hanas heard Pastor Rottier say that in order to

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<sup>2</sup> This fact was confirmed for the Circuit Judge by the probation officer. (Exh. B, p. 19)

<sup>3</sup> Christian Outreach did not have any drug and alcohol counselors on staff and the program prohibited Hanas from having access to Alcoholic Anonymous classes until he had been at Christian Outreach for ten months. (Exh. C, p. 38; Exh. I, ¶ 5).

successfully complete the program the residents would have to go up to the altar and profess that they had been “saved.” (Exh. C, p. 32).

Hanas returned to the Drug Court and asked to be removed from Christian Outreach and placed in a secular program. Hanas’ attorney objected that Christian Outreach had attempted to convert Hanas to the Pentecostal faith and that it had demeaned his Roman Catholic religion. Hanas’ attorneys informed the court that Hanas had been prohibited from practicing his religion, that there were no drug or alcohol counselors on staff at Christian Outreach, and that Hanas was prohibited from attending Alcoholics Anonymous (AA) meetings. The Circuit Court acknowledged that Christian Outreach was not a treatment program, and that it was religious.<sup>4</sup> Hanas’ attorneys implored the court to transfer Hanas to a secular rehabilitation program, or at least permit Hanas to practice his faith. (Exh. B, pp. 17-21; Exh. C, pp. 32-35, 39). Hanas brought witnesses with him to court (Exh. C, pp. 33-34). His request for an evidentiary hearing on his treatment at Christian Outreach was ignored. (*Id.*, pp. 38-39).

Instead, the court removed Hanas from the Drug Court program and proceeded to sentence him as a regular criminal defendant. (Exh. C, p. 44) On March 13, 2003, Hanas was given a sentence of six months in jail and probation for a term of four years, over his attorneys’ strenuous objections that he was being punished solely for asserting his right to practice his religious faith. The only reason Hanas was removed from the

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<sup>4</sup> The Judge said, “Inner City is a residential program. It is not a drug treatment program. It is a residential program. It is a faith based residential program.” (Exh. B, p. 15)

Drug Court program and sentenced to incarceration and probation was his objection to the Christian Outreach program.<sup>5</sup>

The sentencing order provided that after completion of jail or boot camp, Hanas would be released to a secular drug treatment program called New Paths. (Exh. C, pp. 44-47; Exh. D, March 13, 2003 Circuit Court Order). The Circuit Court Judge stated that Hanas would not be in the Drug Court program while at boot camp and New Paths. However, the Judge left open the possibility that he would reconsider admitting Hanas back into the Drug Court if he successfully completed boot camp and the first 60 days at New Paths. (Exhibit C, p. 47)

Petitioner Hanas successfully completed boot camp and, according to his probation report, adjusted well to New Paths and was a positive example to others. (Exh. E, Tr. of Jan. 22, 2004 Hrg., pp. 54-55) At the hearing on Hanas' motion to set aside his plea-based conviction and reinstate him in the Drug Court, the Judge commented that referrals to Christian Outreach were no longer being made. (*Id.*, p. 57) The Circuit Court Judge denied the motion to reinstate Hanas into the Drug Court program and set aside his conviction. (Exh. E, p. 61; Exh. F, Feb. 10, 2004 Order) Until his probation ends on March 13, 2007, Petitioner Hanas remains in the custody of respondent Flint County Adult Probation Department. *See, McVeigh v. Smith*, 872 F.2d 725, 727 (6<sup>th</sup> Cir. 1989); *Miskel v. Carnes*, 397 F.3d 446, 450 (6<sup>th</sup> Cir. 2005).

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<sup>5</sup> It is likely that had Hanas not objected to the religious indoctrination at Christian Outreach, he would have successfully completed the program and avoided a sentence. Pastor Rottier stated on the record that Hanas had "done good" while at Christian Outreach. (Exh. C, p 37).

**PROCEEDINGS IN THE MICHIGAN COURT OF APPEALS AND  
SUPREME COURT**

Hanas sought review in the Michigan Court of Appeals of the trial court's initial judgment of conviction and sentencing and of the order denying him reinstatement in the Drug Court program. On May 26, 2004, the Court of Appeals denied the application for leave to appeal in a one sentence order. (Exh. G, Court of Appeals Order) Hanas then sought review in the Michigan Supreme Court. On January 27, 2005, the Michigan Supreme Court, by a 4-3 vote, denied the application for leave to appeal. (Exh. H, Michigan Supreme Court Order)

**PROCEEDINGS IN THE UNITED STATES SUPREME COURT**

Petitioner Hanas filed a Petition for Writ of Certiorari in the United States Supreme Court on April 26, 2005. (Case No. 04-1461) The Petition was denied on June 20, 2005.

## ARGUMENT

### I. STANDARD FOR ISSUING THE WRIT.

Petitioner Joseph Hanas seeks habeas relief from the custody of the Genesee County Adult Probation Department, which was unconstitutionally imposed under the March 13, 2003 order sentencing him to four years probation. The Petitioner's claim is reviewed against the standards established by the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214 (AEDPA). As amended, 28 U.S.C. § 2254(d) imposes the following standard of review for habeas cases:

An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim-- (1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or (2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

28 U.S.C. § 2254(d). The United States Supreme Court has explained the proper application of the "contrary to" clause as follows:

A state-court decision will certainly be contrary to [the Supreme Court's] clearly established precedent if the state court applies a rule that contradicts the governing law set forth in our cases. . . .

A state-court decision will also be contrary to this Court's clearly established precedent if the state court confronts a set of facts that are materially indistinguishable from a decision of this Court and nevertheless arrives at a result different from [the Court's] precedent.

*Williams v. Taylor*, 529 U.S. 362, 405-06 (2000). A federal court may not issue the writ "simply because that court concludes in its independent judgment that the relevant state-court decision applied clearly established federal law erroneously or incorrectly. Rather, that application must also be unreasonable." *Id.* at 410-411.

**II. THE PETITION SHOULD BE GRANTED BECAUSE THE CRIMINAL SENTENCING OF JOSEPH HANAS AND THE DENIAL OF HIS REINSTATEMENT TO THE DRUG COURT PROGRAM BECAUSE HE OBJECTED TO A PERVASIVELY RELIGIOUS REHABILITATION PROGRAM CLEARLY VIOLATED THE FREE EXERCISE AND ESTABLISHMENT CLAUSES OF THE FIRST AMENDMENT.**

**A. Introduction: The Free Exercise and Establishment Clauses.**

The Drug Court violated the First Amendment's Free Exercise and Establishment Clauses when it assigned the Petitioner to the pervasively religious and coercive Christian Outreach Program, and then sentenced him to six months in jail and four years of probation after he objected and sought reassignment to a secular rehabilitation program. The Drug Court presented the Petitioner with an unconstitutional and unacceptable choice: either subject himself to months of forced indoctrination that systematically demeaned his own religious faith and sought to coerce him into practicing a religion other than his own, or face criminal penalties. Had it not been for this unconstitutional treatment, Mr. Hanas would not be in the custody of the Genesee County Adult Probation Department. Instead, the petitioner would have been retained in the Drug Court program and his conviction by now would have been dismissed.

Coercion into participating in religious activities in the name of the government has long been held to be the paradigmatic violation of the First Amendment's Free Exercise and Establishment Clauses:

The Free Exercise Clause means first and foremost, the right to believe and profess whatever religious doctrine one desires. Thus, the First Amendment obviously excludes all 'governmental regulation of religious beliefs as such.' *Sherbert v Verner*, *supra*, 374 U.S., at 402, 83 S. Ct., at 1793. The government may not compel affirmation of religious belief, *see Torcaso v Watkins*, 367 U.S. 488, 81 S. Ct. 1680, 6 L. Ed. 2d 982 (1961), punish the expression of religious doctrines it believes to be false, *United States v Ballard*, 322 U.S. 78, 86-88, 64 S. Ct. 882, 886-87, 88 L. Ed. 1148 (1944), impose special disabilities on the basis of religious views or religious status, [citations omitted], or lend its power to one side or the

other side in controversies over religious authority or dogma [citations omitted].

*Employment Division v Smith*, 494 U.S. 872, 877 (1990). In *Lee v Weisman*, 505 U.S. 577 (1992), a case involving prayer at public school graduations, Justice Kennedy wrote for the majority:

It is beyond dispute that, at a minimum, the Constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise, or otherwise act in a way which ‘establishes a [state] religion or religious faith, or tends to do so.’ [quoting *Lynch v. Donnelly*, 465 U.S. 668, 678 (1984)]

*Id.* at 587. While there is disagreement as to the appropriate test for an Establishment Clause violation, there is absolute unanimity that government coercion is unconstitutional. *Id.* at 640-642 (Scalia, J., dissenting, stating that coercion “by force of law or threat of penalty” violates the Establishment Clause).

The decisions of the Michigan courts in this case violated the Free Exercise and Establishment Clauses, and were directly contrary to the U.S. Supreme Court’s rulings in the above cases, in at least two ways. First, Hanas’ First Amendment rights were violated when he was assigned to a residential program with a blatantly religious agenda. Second, the Michigan courts violated Hanas’ constitutional rights when his participation in the Drug Court program was permanently revoked and he was sentenced to jail and probation, after he objected that the Christian Outreach program was demeaning his Catholic faith, prohibiting him from practicing his religion, and attempting to convert him to the Pentecostal faith.

**B. The Petitioner’s Sentence Violates the Free Exercise Clause.**

**1. Exhaustion.**

Petitioner exhausted this claim by raising it in the trial court. Petitioner raised this claim in his Application for Leave to Appeal in the Michigan Court of Appeals, and in his Application for Leave to Appeal to the Michigan Supreme Court, as well as in his Petition for Writ of Certiorari.

**2. Merits.**

The circumstances of the Petitioner’s incarceration come as close as one can imagine to a *per se* violation of the Free Exercise Clause. The actions of the Genesee County Circuit Court and the Michigan appellate courts in this case violated one of the fundamental precepts of the First Amendment: that government may not “take sides” by compelling citizens to adhere to certain religious principles or by punishing them for practicing their own.. *See Employment Division v Smith*, supra, 494 U.S. at 877 (“The government may not compel affirmation of religious belief, punish the expression of religious doctrines it believes to be false, impose special disabilities on the basis of religious views or religious status, or lend its power to one or the other side in controversies over religious authority or dogma. [citations omitted]”). “Government may not coerce a person into worshiping against her will, nor prohibit her from worshiping according to it.” *McCreary County v. ACLU of Ky.*, \_\_\_ U.S. \_\_; 125 S. Ct. 2722, 2746; 162 L. Ed. 2d 729 (2005)(O’Connor, J., conc., citing, *Everson v. Bd. Of Education*, 330 U.S. 1 (1946)). The Free Exercise Clause protects not only the right to hold a particular religious belief, but also the right to engage in conduct motivated by that belief.

*Employment Division v Smith*, *supra*, at 877; *Prater v. City of Burnside*, 289 F.3d 417, 427 (6<sup>th</sup> Cir. 2002).<sup>6</sup>

Petitioner Hanas is a practicing Catholic who was denied use of his rosary and Holy Communion prayer book. He was barred from seeing his priest and deacon. His faith was denounced as “witchcraft.” When Hanas objected, the Judge sentenced him to jail and removed him from the Drug Court program, thereby denying him the opportunity to have his case dismissed. Because of his desire to practice his own religion, Hanas now remains in the custody of the Genesee County Adult Probation Department, and he has a conviction on his record that may impair his ability to find employment and enjoy other opportunities.

The confiscation of Hanas’ religious items, the banning of his religious rituals, and foreclosure of access to his religious leaders all constituted a *per se* violation of the Free Exercise Clause. The Sixth Circuit has said:

The exercise of religion often involves not only belief, ‘but the performance of (or abstention from) physical acts: assembling with others for a worship service, participating in sacramental use of bread and wine, proselytizing, abstaining from certain foods or certain modes of transportation. It would be true, we think (though no case of ours has involved the point), that a State would be ‘prohibiting the free exercise [of religion]’ if it sought to ban such acts or abstentions only when they are engaged in for religious reasons, or only because of the religious belief that they display.’

*Mount Elliott Cemetery Ass'n v. City of Troy*, 171 F.3d 398, 403 (6<sup>th</sup> Cir. 1999)(*quoting*, *Employment Division v Smith*, *supra*, at 877). Indeed, there are relatively few cases with facts as extreme as those here, undoubtedly because, as the Supreme Court commented in

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<sup>6</sup> While the State’s action here should be treated as a *per se* Free Exercise Clause violation, at the very least, it must satisfy strict scrutiny. *Church of the Lukumi Babalu Aye, Inc v City of Hialeah*, 508 U.S. 520, 546 (1993); *Wisconsin v Yoder*, 406 U.S. 205, 214-30 (1972).

*Church of the Lukumi Babalu Aye, Inc v City of Hialeah, supra*, "[t]he principle that government may not enact laws that suppress religious belief or practice is so well understood that few violations are recorded in our opinions." *See Hartmann v. Stone*, 68 F.3d 973, 979 (6<sup>th</sup> Cir. 1995). This coercive invasion of the petitioner's religious freedom was undertaken in the name of the Genesee Circuit Court. At the hearing, the probation officer stated, "And remember, the rules of Pastor Rottier's program are the rules of the Court." (Exh. A, Tr. of Jan. 24, 2003 Hrg., p. 10)

There is no question that the *per se* Free Exercise violation here was "contrary to" established federal law. But even if a strict scrutiny test is applied, the record is devoid of any state interest that could possibly justify this burden on the Petitioner's religious freedom -- much less a compelling interest. Plainly, the objective of converting Mr. Hanas to the Pentecostal faith is not constitutionally permissible. The objective of rehabilitating and treating Hanas for substance abuse is a cognizable government objective -- but not at the expense of depriving Hanas of his religious freedom. (Moreover, Christian Outreach had no substance abuse counselors on staff and prohibited Hanas from attending AA, so it could not arguably further that interest.) Certainly there were less intrusive means of achieving the Drug Court's goal of rehabilitating Mr. Hanas. The Drug Court eventually did find a secular rehabilitation program, New Paths, and assigned Hanas to it. (Exh. C, pp. 46-47). Indeed, the court stopped referring defendants to Christian Outreach. By criminally punishing the Petitioner for requesting that he be removed from a religiously coercive program and placed in a secular program, the Genesee Circuit Court violated his Free Exercise right.

## **C. The Actions Of The Michigan Courts Violated The Establishment Clause.**

### **1. Exhaustion.**

Petitioner exhausted this claim by raising it in the trial court. Petitioner raised this claim in his Application for Leave to Appeal in the Michigan Court of Appeals, and in his Application for Leave to Appeal to the Michigan Supreme Court, as well as in his Petition for Certiorari.

### **2. Merits**

The United States Supreme Court has applied several tests to determine whether a government has violated the First Amendment's Establishment Clause: *viz.*, the coercion test, the endorsement test, and the *Lemon* test<sup>7</sup> among others. *E.g.*, *Santa Fe Indep School Dist v Doe*, 530 U.S. 290 (2000) (applying all three tests to school district policy that promoted prayer at public school football games). The government action here easily fails the strictest of these tests, the coercion test. The Petitioner was involuntarily exposed to indoctrination in the Pentecostal faith -- through forced scriptural study and attendance at religious services. Conversion at Christian Outreach was an unconstitutional condition for successful completion of the Drug Court program.

In circumstances comparable to those here, the federal courts have had no trouble finding that referral of a criminal defendant to a religious-themed rehabilitation program violated the Establishment Clause. For example, in *Warner v. Orange County Department of Probation*, 95 F.3d 202 (2<sup>nd</sup> Cir. 1996), *vacated and remanded*, 115 F.3d 1068 (1997), *re-aff'd*, 173 F.3d 120 (1999), *cert. denied*, 528 U.S. 1003 (1999), the defendant was sentenced to attend Alcoholics Anonymous (AA) meetings after he

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<sup>7</sup> See, *Lemon v. Kurtzman*, 403 U.S. 602 (1971).

pleaded guilty to drunk driving. The defendant was an atheist and complained to his probation officer about the overtly religious content of the AA meetings. The defendant was told to increase his participation or face revocation of his probation and incarceration. That, of course, was the choice imposed on Mr. Hanas faced in this case. The Second Circuit found that presenting the defendant with this choice violated the Establishment Clause. The court held that AA had a “substantial religious component,” 115 F.3d at 1070, and that, “[t]here can be no doubt . . . that Warner was coerced into participating in these religious exercises by virtue of his probation sentence.” *Id.* at 1075. The parallels with this case are striking.

Likewise, in *Kerr v Farrey*, 95 F.3d 472 (7<sup>th</sup> Cir. 1996), the Seventh Circuit considered whether James Kerr could be required to attend Narcotics Anonymous (NA) meetings as a condition of his rehabilitation. The court found that if the defendant had not participated in the NA program he would have been subjected to significant penalties, including classification as a high security risk and adverse notation in his record that ultimately could impair his chances of parole. *Id.* at 479. The court also held that the religious component of NA was not incidental. As is the case here, Kerr had no alternative to exposure to the pervasively religious NA program, *Id.* at 474; and the court concluded that enforcing Kerr’s participation in NA ran afoul of the Establishment Clause.

Other cases are in accord: *Griffin v. Coughlin*, 88 N.Y.2d 674; 673 N.E.2d 98 (N.Y. Ct. App. 1996), *cert. denied*, 519 U.S. 1054 (1997)(“ . . . under the Establishment Clause of the United States Constitution’s First Amendment, an atheist or agnostic inmate may not be deprived of eligibility for expanded family visitation privileges for

refusing to participate in the sole alcohol and drug addiction program at his State correctional facility when the program necessarily entails mandatory attendance at and participation in a curriculum which adopts in major part the religious-oriented practices and precepts of Alcoholics Anonymous.” 88 N.Y.2d at 677); *Scarpino v. Grosshiem*, 852 F. Supp. 798 (S.D. Ia. 1994) (same); *Arnold v. Tennessee Board of Paroles*, 956 S.W.2d 478 (Tenn. 1997)(same); *Turner v. Hickman*, 342 F. Supp. 2d 887 (E.D. Cal. 2004)(same); *Bauch v. Sumiec*, 139 F. Supp. 2d 1029 (E.D. Wisc. 2001) (violation of the Establishment Clause where the only alternative to parole revocation offered was placement in the religiously-oriented Exodus House); *Ross v. Keelings*, 2 F. Supp. 2d 810 (E.D. Va. 1998) (finding a violation of the Establishment Clause where non-participation in prison substance abuse recovery program which made frequent mention of “God” resulted in longer prison term). Where alternative, non-religious treatment programs are not offered after the defendant objects to a religious program, the Establishment Clause is violated. *E.g.*, *Rausser v. Horn*, 1999 U.S. Dist. LEXIS 22583 at pp. \*8 - \*11 (W.D. Pa. 1999), *aff’d*, 241 F.3d 330 (3d Cir. 2001).<sup>8</sup>

The Christian Outreach Program was significantly more religious and more coercive than AA and NA programs discussed in many of the above cases. Hanas was not only forced to attend religious services and study Pentecostal teachings, but he was

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<sup>8</sup> In *Teen Ranch v. Udow*, (No. 5:04-CV-32, W.D. Mich.)(unpublished opinion, September 29, 2005, attached), Judge Bell held that referral of troubled teens to a religious residential program violated the Establishment Clause, even where participants were later given the option of leaving the program and selecting another, because the initial referral did not allow the choice of a secular program. (slip op. pp. 15-16)

told that in order to successfully complete the program and thereby remove the conviction from his record, he would have to proclaim his salvation at the altar.<sup>9</sup>

The Michigan courts violated the Establishment Clause by forcing the Petitioner to choose between a pervasively religious rehabilitation program and incarceration, and by punishing him for objecting to the coercive religious indoctrination to which he was subjected.

### CONCLUSION AND RELIEF SOUGHT

For the reasons stated above, Petitioner Joseph Raymond Hanas respectfully requests that his Petition for Writ of Habeas Corpus be granted.

Respectfully submitted,

Andrew Nickelhoff (P37990)  
Cooperating Attorney for the ACLU  
Fund of Michigan  
Sachs Waldman, PC  
1000 Farmer Street  
Detroit, MI 48226  
(313) 496-9429  
e-mail: [anickelhoff@sachswaldman.com](mailto:anickelhoff@sachswaldman.com)

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<sup>9</sup> Courts have found in a few cases that some AA or similar programs are not religious. *E.g.*, *Feasel v Willis*, 904 F Supp 582 (ND Tex 1995); *Stafford v Harrison*, 766 F Supp 1014, 1017 (D Kan 1991). The same can hardly be said of Christian Outreach. Alcoholic Anonymous uses some generic religious symbolism and language in its programs, but is primarily focused on substance abuse rehabilitation. Christian Outreach, by contrast, is sponsored by a specific religious denomination, the Pentecostal faith, and unlike AA, Christian Outreach had no substance abuse counselors on staff and its program of appears to have been based completely on religious immersion and indoctrination.

Gregory T. Gibbs (P2644)  
Cooperating Attorney for the ACLU  
Fund of Michigan  
328 South Saginaw St.  
Flint, MI 48502  
(810) 239-9470  
e-mail: [greggibbs51@sbcglobal.net](mailto:greggibbs51@sbcglobal.net)

Michael J. Steinberg  
Kary L. Moss  
American Civil Liberties Union Fund  
of Michigan  
60 West Hancock Street  
Detroit, MI 48201  
(313) 578-6814  
e-mail: [msteinberg@aclumich.org](mailto:msteinberg@aclumich.org)

Glenn M. Simmington (P33626)  
Cooperating Attorney for the ACLU  
Fund of Michigan  
1000 Mott Foundation Bldg.  
Flint, MI 48502  
(810) 232-3141  
e-mail: [gsimmington@ccglawyers.com](mailto:gsimmington@ccglawyers.com)

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