

PRESS RELEASE

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Subject: Law Professors File Amicus Brief On Religious Liberty Rights In Appeal From Criminal Conviction Of AZ Immigrants' Rights Activists

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April 22, 2019: Today, nationally recognized law professors with expertise in religious liberty law filed an [amicus brief](#) in the appeal¹ of the convictions of four sanctuary activists who were found guilty in January of the crime of leaving water and food in the desert for migrants. The activists were volunteers with the group [No More Deaths/No Más Muertes](#), and have petitioned a federal court in Arizona to reverse their conviction after a three-day trial.

In the brief, the law professors voiced concern that the judge had not provided any analysis of the defendants' religious liberty defenses raised at trial under the Religious Freedom Restoration Act. In his written opinion, the trial judge dismissed testimony that their faith compelled them to take actions designed to prevent human death and suffering, calling their plea a "modified Antigone defense."

[Columbia Law Professor Katherine Franke](#), faculty director of Columbia's [Law, Rights, and Religion Project](#), and author of the law professors' brief wrote: "While the reference to Greek tragedy is interesting, particularly to us as academics, it substitutes for actual legal analysis of the federal statutory defense raised by the defendants. Antigone sets up a tension between the King's law – a formal edict that prohibited the burial of Antigone's brother Polynices – and the unwritten law of the Gods that mandated a proper burial so as to fulfill a duty to honor and mourn the dead. Mid-way through Sophocles' play Antigone challenges the King: 'I did [not] think your orders were so strong that you, a mortal man, could overrule the gods' unwritten and unfailing laws.'"

The brief continues, "Yet the defense raised in this case, unlike in Sophocles' play Antigone, does not stage a tragic conflict between written positive law and unwritten, abstract morality. The law appealed to by the defendants is not outside of or above the laws of the state. Instead, the defendants ask the court to interpret a written, legislatively created right to religious liberty. The magistrate judge's failure to offer a careful analysis of their RFRA defense reflects a mistake of law, passing under cover of a clever parry to Greek tragedy, that should be corrected on appeal."

The law professor's amicus brief is available [here](https://bit.ly/2Uwjlcn): <https://bit.ly/2Uwjlcn>.

¹ USA v. Hoffman, *et al.* U.S. District Court for the District of Arizona, 4:19-cr-00693-RM