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## Strange bedfellows, Imam Rauf and the Rev. Jones

The proponents of the Ground Zero Mosque and the parishioners of Gainesville's Dove World Outreach Center, both involved in heated controversies last month, have at their core a lot in common.

For over a year, a group known as the Cordoba Initiative, led by Imam Feisal Abdul Rauf, has sought to build what it has described as an Islamic cultural center in Manhattan, some two blocks from Ground Zero. The 13-story project is said to include an auditorium, athletic facilities, performing arts center and a Muslim prayer space.

As the anniversary of Sept. 11 approached last month, opposition to the project ramped up. Negative reactions ran the gamut.

Some claimed that building the mosque so close to Ground Zero was just another example of "Islamic triumphalism," claiming that Muslim followers of Sharia law commonly build mosques on the sacred sites of their conquered peoples.

Examples cited from history include the transformation of the awe-worthy Hagia Sophia (Holy Wisdom) basilica of Constantinople (Istanbul) to a mosque; the construction of a mosque at Jerusalem's Temple Mount; and the Moor's construction of the Great Mosque of Cordoba, Spain.

Less virulent opponents felt the project's location so close to the Twin Towers site was in poor taste and insensitive to the families of 9/11, reasoning that if, say, the Presbyterians were the ones who destroyed the Twin Towers, they too would be experiencing pushback on a similar project.

Those in favor of the development cited the First Amendment and our nation's rich tradition of religious tolerance. Even President Obama jumped into the fray.

"Let me be clear," he said. "I believe that Muslims have the same right to practice their religion as anyone else in this country. That includes the right to build a place of worship and a community center on private property in lower Manhattan, in accordance with local laws and ordinances.

"This is America, and our commitment to religious freedom must be unshakable. The principle that people of all faiths are welcome in this country, and will not be treated differently by their government, is essential to who we are. The writ of our Founders must endure."

But perhaps bowing to pressure, the president pulled it back the following day, claiming those comments were not "on



### Law & Politics

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the wisdom of making the decision to put a mosque there," that he was merely "commenting very specifically on the right people have that dates back to our founding."

While all this was going on, Rev. Terry Jones, pastor of a small and relatively unknown Florida church called the Dove World Outreach Center, was fueling up for what he had billed to be "International Burn a Koran Day."

Scheduled for 9/11, the small church of some 50 followers was collecting copies of the Koran for public incineration. Like the Ground Zero mosque, International Burn a Koran Day sparked a major controversy. Citizens of other countries protested and, ironically, burned American flags. It seemed all arms of the federal government were called into action to stop it.

President Obama once again stepped in, deriding the venture, stating that burning "the sacred texts of someone else's religion is contrary to what this country stands for."

Defense Secretary William Gates was front and center, personally called Jones and urged him not to go through with the bonfire, to persuade him that the planned conflagration was simply "not the right thing to proceed with."

A truth emerged from these two controversies: however provocative some may find Rauf and/or Jones, not to mention their plans, the conduct of each is absolutely protected by the First Amendment.

With regard to religious freedoms, the First Amendment unequivocally states that "Congress shall make no law respecting an establishment of religion."

The Supreme Court has said it countless different ways, including that "[no] state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups

and vice versa ... the clause against establishment of religion by law was intended to erect 'a wall of separation between church and state.' "

Similarly, the First Amendment also stands for an individual's right to engage in speech, even symbolic speech like flag-burning, armband wearing, etc., no matter how wrongheaded or bizarre it might seem to everyone else.

So people like Jones are free to exercise their First Amendment rights, regardless of the "wisdom" of what most considered to be no more than a publicity stunt (albeit an apparently effective one).

As the Supreme Court noted in *Texas v Johnson*, the flag-burning case, "If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable. ..."

Freedom of speech recognizes that the "function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger."

If an elected official is going to stand up for the First Amendment in one instance, perhaps when it serves a particular constituency or world-view, he should remain at the ready to do the same when it does not. In other words, a true First Amendment proponent should stand up for its tenets regardless of whose ox is being gored. Admittedly, that isn't always easy to do.

Sure, the president was correct when he noted that our Constitution guarantees practitioners of various faiths, Muslims included, to be free from government interference in the construction of their houses of worship. But he missed an opportunity, law professor that he is, to teach the world that it also guarantees people like Jones the right to freely express themselves and their points of view through symbolic speech.

Regardless, one thing is clear. The Ground Zero Mosque builder and the Florida pastor have a lot in common — they are fortunate to live in a country that has a "First Amendment," one that allows them to practice their religion and express their views, even when others find them hostile.

Like it or not, for such "writ[s] of our Founders" to endure, our leaders must advocate for and protect them, especially when we may not like a particular messenger or his message. What's good for the goose is good for the gander.