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Professors of Law and Religion File Brief Supporting Arizona Immigration Rights Activist's Use of RFRA as a Defense to Federal Criminal Prosecution

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FOR IMMEDIATE RELEASE

SUBJECT: Professors of Law and Religion File Brief Supporting Arizona Immigration Rights Activist's Use of RFRA as a Defense to Federal Criminal Prosecution

FROM: The Public Rights/Private Conscience Project (PRPCP), Columbia Law School

CONTACTS: Professor Katherine Franke, katherine.franke@columbia.edu
No More Deaths: dropthecharges@nomoredeaths.org, 520.282.2993

June 21, 2018: Today, five prominent professors of law and religion filed an *amicus* brief in support of Dr. Scott Warren, a humanitarian aid worker who faces up to twenty years in prison for providing food and shelter to migrants crossing the Arizona desert. The *amicus* was filed in an Arizona federal court, and contends that Dr. Warren is entitled to an accommodation from being criminally prosecuted for acting on his sincerely held religious beliefs. Dr. Warren, is a member of *No More Deaths/No Mas Muertes*, a humanitarian aid organization that works to reduce deaths and suffering along the US-Mexico border by providing water, food and clothing to migrants crossing the Arizona desert. When doing this work, humanitarian workers routinely discover the bodies of migrants who have died due to lack of water, food or shelter in the rugged and remote desert terrain.

Last January, Warren was arrested and charged with three felonies for "harboring migrants" after Border Patrol agents allegedly witnessed him giving food and water to two migrants in the desert near Cabeza Prieta national wildlife refuge in Southern Arizona. Warren was arrested shortly after *No More Deaths* released a [report](#) documenting the systematic destruction by Border Patrol of water and food supplies left in the desert for migrants. Over a nearly four-year period, 3,856 gallons of water had been destroyed by federal officials. The report linked to [video](#) showing border patrol agents kicking over gallons and pouring them out onto the ground.

Warren has filed a motion to dismiss the indictment in his case under the Religious Freedom Restoration Act (RFRA), arguing that his sincerely held religious beliefs compel him to provide aid to people who are suffering - and dying - in the desert. Warren testified at the evidentiary hearing on his RFRA motion that for him "providing humanitarian aid is a sacred act." He also described how spiritually devastated he has been when he has come upon human remains in the desert: "The work that we do in discovering, working to identify and recover the people who have died is one of the most sacred things that we can do as humanitarian aid workers in Southern Arizona and in the desert ... we witness and we are present for people and for their families, the people who have died and who have perished." When asked why he risked violating the law by providing water, food and clothing to migrants in the desert, he testified "Based on my spiritual beliefs, I am compelled to act. I'm drawn to act. I have to act when someone is in need."

Katherine Franke, Sulzbacher Professor of Law at Columbia Law School, authored the brief on behalf of herself and Caroline Mala Corbin, Professor of Law at the University of Miami School of Law, Micah J. Schwartzman, Joseph W.



Dorn Research Professor of Law at the University of Virginia School of Law, Elizabeth Sepper, Professor of Law at Washington University School of Law, and Nelson Tebbe, Professor of Law at Cornell Law School.

“Given that this is the first case in which a RFRA claim has been raised as a defense in a federal criminal prosecution under immigration law we felt it was important that we provide the judge guidance on how to structure his consideration of a religious liberty claim in this context,” said Professor Franke. “The relation of religion to immigration law enforcement is all the more compelling given that Attorney General Jeff Sessions has [quoted biblical text](#) to justify the federal government’s aggressive immigration policies,” she continued.

The law professors’ amicus brief is available [here](#).

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