

**UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI**

M.B., a minor by and through her next friend,
Alexis Smith

Plaintiff,

v.

**Rankin County School District,
and
Charles Frazier**, Individually and in his Official
Capacity as Principal of Northwest
Rankin High School,

Defendants.

Case No. _____

COMPLAINT

Seeking to protect her individual civil liberties and constitutional rights, the plaintiff identified above (the “Plaintiff”), a minor represented by her next friend, Alexis Smith (“Smith”), through their counsel, William Burgess and Monica Miller of the American Humanist Association, and Dianne Herman Ellis and Rita Nahlik Silin, as her complaint against the defendants identified above (collectively, the “Defendants”), being (i) the Rankin County School District (the “School District”) and the principal of Northwest Rankin High School, Charles Frazier (“Frazier”), individually and in his official capacity as principal, in a cause of action under 42 U.S.C. § 1983, alleges as follows:

NATURE OF THE CLAIMS

1. This action arises out of the Defendants' policy of sponsoring school assemblies (the "Christian Assemblies") that promote religion, and Christianity specifically, to its students during the school day. The School's sponsorship, presentation and promotion of these Christian Assemblies, and its excessive entanglement with the Pinelake Baptist Church, violate the Establishment Clause of the First Amendment of the United States Constitution, as applied to Mississippi by the Fourteenth Amendment thereof.

2. The Plaintiff seeks injunctive and declaratory relief and damages under 42 U.S.C. § 1983 against Defendants to redress this Establishment Clause violation, together with recovery of attorney's fees and costs under 42 U.S.C. § 1988 (b).

JURISDICTION AND VENUE

3. This case arises under the First Amendment to the Constitution of the United States and presents a federal question within this Court's jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343 (a)(3). The Court has the authority to issue a declaratory judgment under 28 U.S.C. § 2201 and to provide injunctive relief and damages under 28 U.S.C. § 1343 and Fed. R. Civ. P. 65.

4. Venue is proper within this judicial district pursuant to 28 U.S.C. § 1391 (b)(2) because the events giving rise to the Plaintiff's claims occurred herein.

PARTIES

5. M.B., a minor, is the Plaintiff in this case, and pleads by and through her next friend, Alexis Smith. M.B. is a sixteen-year-old eleventh grader in her junior year at the School. She lives in Brandon, Mississippi.

6. The Plaintiff has chosen Smith, who is a competent adult, to bring this suit on her behalf as next friend. The Plaintiff and Smith have known each other personally since 2010. Smith is an eighteen-year-old graduate of the School. Smith is also a member of the American Humanist Association (“AHA”).

7. The Plaintiff does not wish to encounter the actions of her school to affiliate itself with, prefer and promote a particular religion by sponsoring events such as the Christian Assemblies.

8. The School District operates the public schools in Rankin County, Mississippi and may be served with process upon its Superintendent, Dr. Lynn Weathersby at 1220 Apple Park Place, Brandon, MS 39042.

9. Charles Frazier is the principal of Northwest Rankin High School (the “School”). He is sued in his individual and official capacities and may be served with process at 5805 Hwy 25, Flowood, MS 39232.

FACTS

10. The facts alleged as to the parties stated above are incorporated herein by reference.

11. On April 9, 2013, the School held the first of several mandatory assemblies led by members of the Pinelake Baptist Church.

12. These Christian Assemblies were held during the school day on school grounds. Attendance was required for all students at the School of a particular grade level.

13. The first mandatory assembly (the “Senior Assembly”) was for the senior class. The second assembly (the “Junior Assembly”), which took place on April 10, was for the junior class.

14. The School also scheduled the same Christian video and presentation to be delivered to the freshman and sophomore classes later in the week. However, these assemblies were postponed.

15. The following week, the School held the third assembly (“the Sophomore Assembly”), which took place on Monday, April 22, which was for the sophomore class.

16. The same Christian video and presentation was shown in all three assemblies.

The Senior Assembly

17. On April 9, 2013, Principal Frazier sent an e-mail message to all faculty members at 8:04 a.m. instructing them to send students to a mandatory assembly in the Performing Arts Building (“PAB”). The e-mail read in full: “Sorry for the late notice. All seniors will need to report to the PAB during Cougar Connection. They should report directly from 5th block. Thanks.”

18. The School did not inform the students what the presentation at the Senior Assembly would be about or who would be making it. The students were only told that attendance at the assembly was required.

19. Once the students and faculty arrived in the PAB, a student member (the “Church Representative”) of Pinelake Baptist Church started to give a presentation about finding “hope” in “Jesus Christ.”

20. The Church Representative opened the senior assembly stating: “Today we are just here today to talk about hope . . . and where we have found it.”

21. After about a minute of introductory comments, he started a video for the students. The video profiled four young men it claimed once led troubled lives.

22. The first statement made by one of the speakers in the video is: “Hope is fixing your eyes on an eternal purpose.”

23. The presentation described various behaviors such as turning to drugs, sex, cutting, suicide, and the like.

24. The first speaker talked about his addiction to pornography. The second speaker talked about issues with his father. The third speaker also talked about problems with his family, as well as promiscuity and suicide. The fourth speaker said he had a great family that introduced him to the church. He said at first he did not think he could measure up to Jesus Christ so he sought hope in “other things.”

25. The first speaker said he used to find hope in “cars and clothes.” The second said he “used to find hope in people” and in “other guys.” He looked to these people for “brotherly love” and “fatherly love.” He said he then struggled with suicidal thoughts, and resorted to “cutting himself.”

26. The third speaker discussed his grandfather's suicide. He had previously turned to his grandfather for hope. He also found his hope in "women and girls" and would see how many of them he "could get." He said he was setting himself up for failure.

27. Speaker Four also said he used to find "hope in relationships with other people" and "in himself" and in his "materialistic living."

28. About five minutes into the video, Speaker One stated: "But now I find my hope in something that's more eternal that is not in this world."

29. In turn, each of the speakers explained how turning to Jesus Christ solved their problems and recommended that other people turn to Jesus Christ as well.

30. The second speaker said "Now I find my hope in God," and that "he shows me the love my father could never show me." "He's taken me in as his son." He "taught me how to be a man."

31. The third speaker said: "But now, I found my hope in the one true Father who is God. He is the one that can fulfill relationships." He realized that "He is that happy ending."

32. The fourth speaker stated: "But now I found hope in my personal savior."

33. The video concluded with clapping from the audience, which included teachers and administrators.

34. Once the video ended, the Church Representative summarized the video in regards to how Jesus Christ helped the young men and other troubled teens, and told the students that Jesus could help them too.

35. The Church Representative said in this regard: “We wanted to come here today to tell you about what hope is.” He stated that they came there to ask “what do you find hope in.” He said: “some of us have come from broken backgrounds.”

36. He continued: “Each one of us has a story and the story that you guys heard from those guys up there is where they used to put their hope in . . . the first one was in his grandfather. For some of them it was a relationship with a girl or just a friend. For some of them it was maybe it was alcohol or drugs. And that’s where they found hope. But the fact is every single one of those guys that shared there story told you that they came up empty. Because they were broken and because these things are material and they run out and they are of this world.”

37. The Church Representative continued: “So maybe many of you struggle with the same things you come from a home in which your parents divorced at an early age . . . you have a scar in your life and you begin to try to fill it with something of this world and it ran out, it didn’t satisfy you and so you continue to search and you continue to look and it became a greater problem. We are here today to tell you where we find our hope. We find our hope in Jesus Christ.”

38. He continued: “As I say that I know some of you go, ‘Yeah I know who Jesus is and I’m not really . . . I’m not about that life.’ And we know it is not cool for us to stand up here and tell you that we follow Jesus. We understand that. But that’s okay. Because we care about you so much that there is no way that we could graduate from high school and have a hope that we believe is for our eternity and not share it with you guys. How selfish of us would that be. That we know there is a life changing hope out there and we not share it with you.”

39. The assembly immediately turned into a full-blown lecture on the supposed miracles, powers, and teachings of Jesus Christ and the Church Representative encouraged all students to find sanctity in him.

40. The Church Representative encouraged those who did not believe in “Jesus Christ” to “just be open.” He then explained: “some of you may not know who Jesus is and say ‘who is this Jesus?’ Jesus was God’s son and he came to earth over 2,000 years ago and for 33 years he walked the earth. He lived a perfect life. Something that no one else has done. He lived a perfect life. See we all in our past, we all have messed up. We’ve all failed. And it is because of this that our relationship with God is [unclear] . . . there was a gap between us and God because God is perfect and human is not. Then Jesus came knowing the end was in mind and his ultimate purpose to come to earth was to die. Not a normal death. But a death for each and every one of you and a death for me. That was his purpose. See, before Jesus came, innocent blood had to be shed for our sins. There had to be an animal that was sacrificed to atone for our sin. There had to be innocent blood. So Jesus came and he was the innocent blood because he lived a perfect life. He was that innocent blood. See the last few years of Jesus’ life he traveled from region to region and country to country and he had 12 disciples that followed him everywhere. And he talked about the hope he was bringing.”

41. The Church Representative then discussed the “miracles of Jesus” as follows: “And he did many signs of miracles, he made the . . . [unclear], the blind could see, the deaf could hear, he would cast out evil demons, he would drive them out. But the people of that day dissed [unclear] who he was even though he did all these things, they still dissed [unclear] who he was because they thought Jesus was coming as an earthly king. They thought he was coming

to reign here. And be glorified here. But that is not what Jesus came to do. Jesus came to be last. When he was on earth Jesus came to be last . . . And so even though Jesus was perfect he was condemned as a man that ought to die. And he was beaten, he was spit on and he was mopped and he was whipped and he was he was nailed to the cross. And when he was nailed to the cross your sins, all your past failures all your present failures all your future failures all my failures were nailed to the cross with Jesus. Then he died. But see our hope is not in the death of Jesus. That's not where we find hope. But our hope comes three days later when on that Sunday morning the disciples . . . went to the tomb where Jesus was they found that the stone had been rolled away and in its place was the angel of the Lord and the Angel Lord said he is not here for he has risen. Our hope is in the life that Jesus offers. Because he defeated sin. He defeated death. And he is victorious. And Jesus offers the same life to you, forgiveness, grace, love, mercy and hope for each and every one of us . . . Before Jesus we were dead in our sin. But Jesus came to give us life. He came to bridge the gap. He laid down his life and the gap between us and God so that through him we may have life abundantly. As Christians God calls us to more than just a Sunday life . . . More than just saying I believe in Jesus but not acting like it . . . us guys will tell you we're not perfect we don't claim to be and we don't want to be because if we were perfect we wouldn't be Jesus. We still struggle just like all of you. Though we try on a daily basis to have a relationship with God. That's what he calls us to . . . a daily relationship with God. In which we . . . learn more value and try to live a life that exemplifies that. But we still mess up . . . but that's the beauty of the gospel is that we are not who we used to be, our identity is not who we used to be, it's not in our previous failures, it's in Christ. As a Christian our identity is in Christ and what he came to do for us.”

42. Concluding this discussion, the Church Representative led the students in a Christian prayer.

43. He said: “Ephesians 1:7 says in Him we have redemption through His blood, the forgiveness of sins, in accordance with the riches of God’s grace. The sin that separated us from God was paid for on the cross. And you have my hope today. Jesus says for anyone that calls Him in the name of the Lord will be saved, wherever you are, for anyone who calls in the name of the Lord will be saved. You confess with your mouth and believe in your heart, salvation will come. I just pray for you guys.”

44. At no time did the School turn off the video

45. Indeed, the presentation was mandatory and faculty and parents stood near the exit door, preventing students from leaving.

46. A senior friend of M.B. indicated that there were about 20 to 30 staff and about 5 to 10 parents present.

47. The parents were the family members of the Church Representatives.

48. The School’s truancy officer, Jeff White (“Officer White”), harassed several students who attempted to leave and told them to sit back down.

49. Many students thought the presentation was inappropriate and felt that it discriminated against their beliefs.

50. A student who attended this presentation notified Alexis Smith, the next friend in this action.

51. A senior, who is not a party to this suit, took video footage of the entire presentation and closing remarks that occurred on April 9.

The Junior Assembly

52. On April 10th, 2013, the School held a mandatory assembly for the junior class, consisting of the same presentation and video given the previous day to the senior class.

53. The 11th grade students were called out of their homeroom class sometime around 9:40 a.m. and were told to go directly to the PAB.

54. The administration did not inform the students of the nature of the presentation beforehand.

55. M.B. was forced to attend this assembly.

56. M.B. was informed by some of her senior friends that the assembly would be a Christian presentation.

57. Before the presentation started, M.B. and a few of her friends attempted to go to the library or another classroom instead but they were prevented from doing so by Officer White.

58. Officer White redirected the students to the PAB, and refused to allow them to spend time in a monitored library where they could have studied during the presentation.

59. M.B. said she felt “a lot of pressure from the teachers to go as well.”

60. None of the teachers informed the students of the content of the assembly.

61. The Junior Assembly took place roughly around 9:40 a.m. during homeroom.

62. According to M.B., when they went to the PAB, the presentation began, like the senior one, with a discussion on hope. Then they played the video.

63. The assembly focused heavily on Christian beliefs and advocated their adoption.

64. According to M.B., “the assembly became a sermon; lecturing that we could only find hope through the existence of Jesus Christ, a Christian symbol. At the end, we were led in a group prayer.”

65. During the presentation, some students attempted to stand up and leave upon discovering the nature of the assembly, but, according to M.B., “they were literally barred from exiting by teachers.”

66. M.B. said: “I was forced to attend a Christian assembly that I was not comfortable with, and I was forced to do so by public school administration.”

67. M.B. notes that the Christian Assembly “veered from the usual content of our assemblies (which usually focus on school and college life).”

68. On April 11, 2013, the AHA sent a letter (the “AHA Letter”) to Principal Frazier. The AHA Letter informed the principal that the Christian Assemblies were unconstitutional and asked that they be stopped immediately.

69. The scheduled April 12, 2013, Freshman Assembly was postponed.

70. The scheduled Sophomore Class Assembly was also postponed.

The Sophomore Assembly

71. On Monday, April 22, 2013, the administrators held the Sophomore Assembly.

72. Just like the Senior and Junior Assemblies, the Sophomore Assembly was also announced by the administration through the official school e-mail system.

73. All sophomores were required to attend.

74. Like the previous Christian Assemblies, this one also took place on School grounds and during school hours.

75. The presentation consisted of the same video and Christian message as the previous two assemblies.

CAUSES OF ACTION

76. All preceding allegations are incorporated herein by reference.

77. The Defendants' decision to sponsor and present the Christian Assemblies is in violation of the Establishment Clause of the First Amendment to the United States Constitution.

78. The Defendants acted under color of state law in violating the First Amendment as described herein in violation of 42 U.S.C. § 1983.

RELIEF SOUGHT

The Plaintiff requests that this Court grant the following relief:

1. A declaratory judgment that the decision to sponsor, present, promote and encourage or require attendance by School students at the Christian Assemblies violates the Establishment Clause of the First Amendment of the United States Constitution and is a violation of the Plaintiff's constitutional rights under 42 U.S.C. § 1983;

2. A permanent injunction enjoining the Defendants, their successors and any person in active concert with the Defendants, including the Pinelake Baptist Church, from knowingly, intentionally, or negligently presenting or allowing to be presented religious assemblies at any public schools;

3. A judgment in the Plaintiff's favor for nominal damages;

4. An award to the Plaintiff of her reasonable costs, disbursements and attorneys' fees as allowed by law from Defendants pursuant to 42 U.S.C. § 1988;

5. An award to the Plaintiff of punitive damages against Principal Frazier in his individual capacity for his reckless disregard for Plaintiff's constitutional rights; and

6. An award of such other and further relief as the court shall deem just.

Respectfully submitted,

April __, 2013

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