

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION**

AMERICAN HUMANIST ASSOCIATION, INC.,
JANE DOE, individually,
JANE ROE, individually,
and JANE COE, individually,

Plaintiffs,

v.

HALL COUNTY SCHOOL DISTRICT (A/K/A/
“Hall County Schools”),
WILL SCHOFIELD, individually, and in his official
capacity as Superintendent of Hall County School
District,
and SUZANNE JARRARD, individually and in her
official capacity as Principal of Chestatee High
School,

Defendants.

Civil Action No.

2:14-cv-288-WCO

COMPLAINT

Seeking to protect and vindicate their constitutional rights, Plaintiffs state as their complaint against the above-captioned Defendants the following:

NATURE OF THE CLAIMS

1. This action challenges Defendants' policy, practice, and custom of authorizing faculty, coaches and other school officials to lead and participate in prayer with students during school-sponsored activities, and their policy, practice, and custom of inserting biblical references into official football team documents and banners, in violation of the Establishment Clause of the First Amendment to the United States Constitution, as applied to Georgia by the Fourteenth Amendment.

2. Plaintiffs seek injunctive and declaratory relief and damages under 42 U.S.C. § 1983 against Defendants to redress said Establishment Clause violations, 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 United States Constitution 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 Plaintiffs' claims occurred herein.

PARTIES

5. The first Plaintiff, the American Humanist Association (“AHA”), is a nonprofit 501(c)(3) organization incorporated in Illinois with a principal place of business at 1777 T Street N.W., Washington, D.C. AHA is a membership organization, with over 30,000 members, 181 chapters and 80 affiliates nationwide, and over 350,000 online supporters and followers. AHA promotes humanism and is dedicated to advancing and preserving separation of church and state and the constitutional rights of humanists, atheists and other freethinkers. AHA brings this action to assert the First Amendment rights of its members.

6. Plaintiffs Jane Doe, Jane Roe, and Jane Coe, are members of the AHA.

7. Plaintiff Jane Doe is a citizen of the United States, of the State of Georgia, and is a resident with the Hall County School District (hereafter “School District”). She owns property in the School District and pays taxes to support it. She is not a Christian, not theistic in her religious beliefs, and is a member of the AHA. She is aggrieved by the unlawful acts and practices complained of herein because her child, Doechild, a student in the Hall County School District, has been exposed to the promotion of religion in said public schools and influenced by same and will

continue to be so exposed if the violations are allowed to continue. This Plaintiff and her husband are parents and have legal custody of Doechild.

8. Doechild has been enrolled as a student in the Hall County School District's public schools for several years, is still so enrolled at the time this action is being initiated, and is expected to eventually matriculate to Chestatee High School.

Doechild is not theistic and has been subjected to the School District affiliating itself with, preferring, and promoting and endorsing theistic religion, and Christianity in particular, as more fully set forth herein.

9. Plaintiff Jane Roe is a citizen of the United States, of the State of Georgia, and is a resident with the School District. She owns property in the School District and pays taxes to support it. She is an Atheist and is a member of the AHA. She is aggrieved by the acts and practices complained of herein because the School District affiliates itself with, prefers, promotes and endorses religion, as more fully set forth herein.

10. Plaintiff Jane Coe is a citizen of the United States, of the State of Georgia, and is a resident with the School District. She owns property in the School District and pays taxes to support it. She is aggrieved by the acts and practices complained of herein because the School District affiliates itself with, prefers, promotes and endorses religion, as more fully set forth herein.

11. Defendant School District is the governing body of public schools in Hall County, Georgia, and exists pursuant to the laws of the State of Georgia. At all times pertinent hereto, it was and is operating within the scope of its authority and under color of state law.

12. Defendant Will Schofield is the Superintendent of the School District and is responsible for the day-to-day operation of the School District's public schools, for carrying out the School District's policies and programs, and for insuring compliance with all pertinent legal requirements. Defendant Schofield is sued in his individual capacity and official capacity as Superintendent of the School District.

13. Defendant Suzanne Jarrard is the Principal of Chestatee High School (respectively, "Jarrard" and "CHS") and was the Principal of the school at the time of the events described herein. Plaintiffs sue Jarrard in her individual capacity and official capacity as principal.

FACTS

14. The School District has an ongoing policy, practice and custom of allowing its faculty, including coaches, to lead and participate in prayers with students during school-sponsored activities.

15. The School District also has an ongoing policy, practice and custom of allowing its faculty, including coaches, to insert religious biblical passages and

references on official football team documents and promotional materials such as banners.

16. Such practices have harmed, and continue to cause harm, to Plaintiffs.

17. CHS football coaches have led prayers with students at football practices and games.

18. CHS football coaches have participated in prayers with students at football games.

19. CHS coaches have joined players in prayer while standing in a circle.

20. CHS coaches have led or participated in prayers with students for at least five years.

21. Attached as Exhibit 1 is a true and accurate photograph of a CHS coach participating in prayer with students on the CHS football team. The photograph was taken on or about the 2013-2014 school year.

22. Coaches at North Hall High School, a School District School, have led or participated in prayers with students on the North Hall football team.

23. Attached as Exhibit 2 is a true and accurate photograph of coaches participating in prayer with students at a football scrimmage between North Hall High School and Gilmer High School. The photograph was taken on or about August 15-29, 2014.

24. Attached as Exhibit 3 are screenshots of Bill Kokaly's Facebook page depicting the photograph of coaches praying with students at a North Hall High School football scrimmage. These screenshots were captured during the 2013-2014 school year.
25. CHS football coaches have integrated Bible verses and references into team documents.
26. A citation to Galatians 6:9 was placed at the bottom of workout logs given to players.
27. Attached as Exhibit 3 is a true and accurate photograph of a CHS workout log containing a biblical reference. This workout log was created sometime during the 2013-2014 school year.
28. The citation and text of Proverbs 27:17 was written on a banner used for a CHS football team game.
29. Attached as Exhibit 4 is a true and accurate photograph of a banner containing the citation and text of Proverbs 27:17 used for a football team game entrance. The banner depicted in Exhibit 4 was displayed at a CHS football game on or about the 2013-2014 school year.
30. Coaches at other School District schools, including but not limited North Hall High School, have also participated in prayers with students during practices or games.

31. At least one CHS wrestling coach led students on the wrestling team in prayer.

32. Former CHS wrestling coach Carey Whitlow discussed Jesus during motivational speeches to the wrestling team. He told the players “Jesus was a wrestler” and quoted from Ephesians 6:12.

33. At least one North Hall High School baseball coach has participated in prayer with students on the North Hall High School baseball team.

34. North Hall High School baseball coach Trent Mongero (“Coach Mongero”) participated in a prayer with players on the baseball team.

35. On or about August 13, 2014, Coach Mongero posted on his Twitter account, a photograph of the North Hall High School baseball team praying accompanied by the following text: “North Hall stands firm with Chestatee!”

36. True and accurate screenshots of Coach Mongero’s Twitter page are attached as Exhibit 4.

37. A CHS marching band director has initiated prayers and has participated in prayers with students in the marching band.

38. The marching band has had elected student “chaplains.”

39. On August 12, 2014, AHA sent a letter to Defendants informing them of the unconstitutional practices at CHS. A true and accurate copy of this letter is attached herein as Exhibit 5.

40. The August 12 letter informed Defendants that the practice of coaches leading and participating in prayers with students is unconstitutional. The letter also informed Defendants that the practice of including religious references in team documents and banners is unconstitutional.

41. Among other things, AHA's counsel wrote: "To avoid legal action, we kindly ask that you notify me in writing within two weeks of receipt of this letter setting forth the steps you will take to rectify this constitutional infringement."

42. On August 12, 2014, Gordon Higgins, Director of Community Relations and Athletics with Hall County School District, wrote the following message to AHA's counsel "Thank you for bringing this issue to our attention. We have read your letter and will be doing an investigation over the next several days concerning the allegations. A response will be forthcoming."

43. On August 26, 2014, counsel for the School District emailed a letter to AHA's counsel. A true and accurate copy of this letter is attached herein as Exhibit 6.

44. The August 26 letter from the School District did set forth steps it would take to rectify the constitutional infringements set forth in AHA's August 12, 2014 letter.

45. On or about August 26, 2014, students and adults gathered to pray at Chestatee High School's football field. A video recording of the event can be

viewed at the following URL:

https://www.youtube.com/watch?v=miPHIM4k_n0&list=UUF9Ez0IrVj4YsrjgNA29n7A

46. On August 27, 2014, AHA's counsel replied to the School District's letter. A true and accurate copy of the AHA's second letter is attached herein as Exhibit 7.

47. The August 27 letter informed the School District that their response was insufficient to address the constitutional infringements described in the AHA's August 12 letter.

48. The August 27 AHA letter provided in part:

In sum, we appreciate the initial steps the School District has taken to rectify the constitutional violations discussed in our letter but we feel more is needed to ensure compliance with the Establishment Clause. As we pointed out in our letter, we feel these issues can easily be resolved without resort to litigation. While we prefer to leave it up to school administrators to determine the steps it will take to correct Establishment Clause violations, we offer the following steps that, if implemented, would prevent the School District from being sued in federal court: 1. Adopt a written policy prohibiting teachers, coaches and other school officials from leading, endorsing, facilitating, and participating in prayer with students; 2. Eliminate all religious references from official team documents and promotional materials and adopt a written policy prohibiting the same; 3. Enforce said written policies by monitoring games and practices and by sanctioning school officials for non-compliance with the penalties assessed for similar school code violations. In addition to the above steps that we believe are necessary for the School District to adopt to avoid litigation, we feel that the School District can and should go further to ensure the rights of the minority are protected to the same degree as the majority. For instance, we encourage the district to implement sensitivity training at the beginning of each school year. Once again, we ask that you please respond to us promptly in writing regarding the School District's

decision on these issues. We earnestly wish to work with the School District on reaching an amicable yet effective resolution and truly believe that this is possible.”

49. To the best of Plaintiffs’ information and belief, the School District failed and refused to make any response to Plaintiffs’ August 27, 2014 correspondence.

50. On or about August 29, 2014, a coach participated in prayer with students on the CHS football team. The coach bowed his head and held hands with students in prayer before CHS’s game against Flowery Branch at War Eagle Stadium.

51. A true and accurate photograph of a CHS coach bowing his head and holding hands with students in prayer is attached herein as Exhibit 8.

52. Many people who attended the August 29, 2014, CHS football game wore Chestatee T-shirts which read “Pray then Play,” with the Chestatee logo surrounding a cross. The back lists scripture from Romans 8:31, written in the shape of a white cross.

53. The shirt also contains the following text: “What, then, shall we say in response to these things? If God is for us, who can be against us?”

54. A true and accurate photograph of a person wearing this Chestatee T-shirt is depicted in Exhibit 9. The photograph was taken at the August 29, 2014, CHS football game.

55. Attached as Exhibit 10 is a true and accurate photograph of a shirt sold to support CHS football prayers.

56. The T-shirts were being sold to support the CHS cheerleaders.

57. Attached as Exhibit 11 is a copy of an article from Gainesville Times describing the prayer and prayer shirts at the August 29, 2014 CHS game. The article was taken from the following URL:

<http://www.gainesvilletimes.com/m/section/6/article/104018/>

58. On or about August 28, 2014, a local minister by the name of Randall Popham posted a message on Facebook, stating in part that the “accusation brought against the school is that coaches are leading these non-optional prayer times. It’s true. I’ve seen it. I’ve been a part of them. I know personally there were students who felt forced to take part and the ability to opt out wasn’t given. Saying this may get me uninvited back. But, it’s true. I can’t sit back and say nothing while many well-meaning Christians post about a situation they have no personal knowledge about and demonize those who oppose them. The coaches, assistants and personnel are all great people and I have no doubt they love Jesus.” (Exhibit 12).

59. Attached as Exhibit 13 is a screenshot of a Twitter page with a photograph of a CHS football helmet and the words “PRAY for CHESTATEE high school.”

60. Attached as Exhibit 14 is a screenshot of a Twitter page showing support for CHS football prayers.

61. Attached as Exhibit 15 is a screenshot of an Instagram page posted on or about October 17, 2014, showing the team and coaches praying on the field. The

post proclaims, inter alia, “In Chestatee we Believe! #prayeriscool #oneteam #onedream #family #WarEagleNation.”

62. Upon information and belief, Hall County School District high school graduations have been held with some regularity at Free Chapel, a Christian church in Gainesville.

CAUSES OF ACTION

63. All preceding allegations are incorporated herein by reference.

64. The actions of Defendants and their agents, servants, or employees, as described above, violate the Establishment Clause of the First Amendment of the United States Constitution (the “Establishment Clause”).

65. Defendants’ policy, practice, and custom of permitting faculty and other school officials to lead and participate in prayer with students during school-sponsored activities violates the Establishment Clause.

66. Defendants’ policy, practice, and custom of including religious biblical references in official team documents and banners violates the Establishment Clause.

67. Defendants’ policies, practices, and customs described above lack a secular purpose, have the effect of promoting, favoring and endorsing religion over non-religion and Christianity specifically, and result in an excessive entanglement between government and religion, thus violating the Establishment Clause.

68. Defendants' policies, practices, and customs described above coerce school children to participate in religious activity in violation of the Establishment Clause.

69. Each of the individual Defendants, in their individual capacities, intentionally or recklessly violated Plaintiffs' well-settled constitutional rights under the Establishment Clause.

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

71. As a result of Defendants' policies, acts, and practices, Plaintiffs have suffered and are continuing to suffer irreparable harm because they are deprived of their constitutional right to a public school education free from religion and religious influence.

RELIEF SOUGHT

72. All preceding allegations are incorporated herein by reference.

73. Plaintiffs request that this Court grant the following relief:

- i. A declaratory judgment that Defendants' actions described above violated the Establishment Clause of the First Amendment to the United States Constitution.
- ii. A declaratory judgment that the above actions of Defendants:
 - a. lack a secular purpose;

- b. have the effect of endorsing, favoring, and preferring religion over non-religion and Christianity in particular;
 - c. result in excessive government entanglement with religion; and
 - d. coerce students and parents to participate in religious activity in violation of the Establishment Clause;
- iii. A declaratory judgment that the individual Defendants, named in their individual capacities, violated the Establishment Clause;
- iv. A permanent injunction prohibiting:
 - a. School District faculty, coaches and other school officials from leading, initiating or participating in prayers with students at school sponsored activities and specifically at athletic games and practices and marching band practices and performances;
 - b. School District faculty, coaches and other school officials from delivering religious sermons, speeches, or other proselytizing religious messages to students during school sponsored activities;
 - c. Defendants, their agents, successors and any person in active concert with Defendants from permitting faculty, coaches and other school officials to lead, initiate or participate in prayers with students during school sponsored activities;

- d. Defendants, their agents, successors and any person in active concert with Defendants from permitting faculty, coaches and other school officials to deliver religious sermons, speeches, or other proselytizing religious messages to students during school sponsored activities;
- e. Defendants, their agents, successors and any person in active concert with Defendants from including religious references in official team documents, banners and other team materials;
- v. Award nominal damages to Plaintiffs against Defendants;

Award Plaintiffs the attorneys' fees, expenses, and costs reasonably incurred in prosecuting this action pursuant to 42 U.S.C. § 1988; and

- vi. Award Plaintiffs such other relief as this Court deems just and proper.

RESPECTFULLY SUBMITTED this date: November 14, 2014.



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(Motion for *pro hac vice* filed concurrently)

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