

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

CHRISTA SCHULTZ and DANNY SCHULTZ,
both individually and as parents and
guardians of minor child C.S., a student in
the Medina Valley Independent School District;
C.S., a minor, individually, by his next best friends
Christa Schultz and Danny Schultz;
and TREVOR SCHULTZ, individually,

Plaintiffs,

v.

MEDINA VALLEY INDEPENDENT
SCHOOL DISTRICT,

Defendant.

CIVIL ACTION NO. S:11-cv-422

COMPLAINT

Donald H. Flanary, III
(Bar No. 24045877)
Goldstein, Goldstein & Hilley
310 South St. Mary's Street, Suite 2900
San Antonio, Texas 78205
Tel: (210) 226-1463
Fax: (210) 226-8367
donflanary@hotmail.com

Ayesha N. Khan*
(D.C. Bar No. 426836)
Alex Luchenitser*
(D.C. Bar No. 473393)
Americans United for Separation
of Church and State
1301 K Street, NW, Ste. 850
Washington, DC 20005
Tel: (202) 466-3234
Fax: (202) 898-0955
khan@au.org
luchenitser@au.org

Counsel for Plaintiffs

*Motion for admission *pro hac vice* pending

Introduction

1. “Everyone knows that in our society and in our culture high school graduation is one of life’s most significant occasions.”¹ So in 1992, the United States Supreme Court held in *Lee v. Weisman* that it is unconstitutional for public schools to include prayer as part of graduation ceremonies, because “[t]he Constitution forbids the State to exact religious conformity from a student as the price of attending her own high school graduation.”²

2. Nonetheless, the Medina Valley Independent School District has a student deliver an “invocation” and “benediction” as an official part of its graduation ceremonies. Despite being informed of *Lee* and its progeny, District officials have declined to discontinue this practice — both in the past and with respect to the upcoming graduation ceremony on June 4, 2011 — thus forcing Plaintiffs to bring this action to enforce settled Supreme Court precedent that the School District has knowingly chosen to disregard.

3. Plaintiffs therefore seek a temporary restraining order prohibiting the Defendant from including any prayer — whether denominated an “invocation,” “benediction,” or otherwise — in the Medina Valley High School graduation ceremony on June 4, 2011, a permanent injunction enjoining the District from sponsoring prayer at future school events, and the other relief listed in the Prayer for Relief below.

Jurisdiction and Venue

4. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1343.

¹ *Lee v. Weisman*, 505 U.S. 577, 595 (1992).

² *Id.* at 596.

5. The Court has the authority to grant declaratory relief under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

6. Venue is proper in this Court under 28 U.S.C. § 1391(b).

Parties

7. The Trustees of Medina Valley Independent School District constitute a corporate body that is amenable to suit under Texas law, and may sue and be sued in the name of Medina Valley Independent School District.³ The District has “the primary responsibility for implementing the state’s system of public education” within its geographic borders.⁴ It thus has “the exclusive power and duty to govern and oversee the management of the public schools of the district,” including the authority to “adopt rules and bylaws necessary to carry out” those duties.⁵ This statutory authority extends to instituting and implementing the graduation-prayer practice, custom, and policy that is challenged herein.

8. Christa and Danny Schultz reside in the Medina Valley Independent School District. They do not subscribe to any religion, considering themselves to be Agnostic. They are parents of one child who attended, and another child who is currently attending, Medina Valley High School. Mr. and Mrs. Schultz attended the graduation ceremony of a family friend at Medina Valley High School in 2008, where they were exposed to unwelcome prayers. Their eldest child graduated from

³ See TEX. EDUC. CODE ANN. § 11.151(a) (2011); see also *San Antonio Indep. Sch. Dist. v. McKinney*, 936 S.W.2d 279, 283 (Tex. 1996) (“We hold that an independent school district is . . . amenable to suit in federal court under the Eleventh Amendment to the United States Constitution. The members of [an] independent school district’s board of trustees sued in their official capacities, likewise, are not protected by the Eleventh Amendment.”).

⁴ TEX. EDUC. CODE ANN. § 11.002 (2011).

⁵ *Id.* § 11.151(b), (d).

Medina Valley High School in 2009, and they, along with their younger son C.S., attended the graduation ceremony held that year. During the ceremony, they were again exposed to the graduation prayers challenged herein. Their second child, C.S., is a minor who is scheduled to graduate from Medina Valley High School on June 4, 2011. If the Schultzes were to attend the graduation of their son, they would once again be exposed to the School District's longstanding practice of presenting prayers as part of graduation ceremonies, unless the practice is enjoined.

9. Christa and Danny Schultz object to and are offended by the District's custom of presenting graduation prayers because the practice demeans and excludes their religious beliefs, fails to respect others' beliefs and religions as mandated by their personal beliefs, reflects a disregard of the boundary between church and state that is necessary in a pluralistic society, coercively exposes them and their children to publicly sponsored religious exercises, places coercive pressures on them to participate in religious exercises, and impedes their ability to direct and control the religious upbringing of their children free from governmental intrusion or interference. They also object to, and are offended by, the District's graduation prayers because their minor son C.S., who is scheduled to graduate this year from Medina Valley High School, has said that he may not attend the graduation ceremony if prayers remain a part of the ceremonies. Accordingly, if the prayers are not enjoined, Christa and Danny Schultz may be deprived of the opportunity to attend, and join in the celebration of, their son's graduation ceremony.

10. Christa and Danny Schultz are suing both individually and on behalf of their minor child, C.S. C.S. is also himself suing individually by his next best friends, Christa and Danny Schultz.

11. C.S., like his parents, is religiously Agnostic. He attended his brother Trevor's graduation ceremony in 2009, where he was exposed to unwelcome prayers. C.S. objects to and is offended by the District's graduation prayers because the practice demeans and excludes his religious beliefs, fails to respect others' beliefs and religions as mandated by his personal beliefs, reflects a disregard of the boundary between church and state that is necessary in a pluralistic society, and coercively exposes him to publicly sponsored religious exercises. C.S. would like to attend his upcoming graduation ceremony on June 4, 2011. If, however, the prayers are allowed to go forward, he is not yet sure whether he will attend.

12. Trevor Schultz no longer resides within the boundaries of the Medina Valley Independent School District, but he remains a resident of the State of Texas. He graduated from Medina Valley High School in June 2009 and is, like his parents and brother, religiously Agnostic. While attending his graduation ceremony, he was exposed to prayers that were presented as part of the program of ceremonies. He was deeply offended by the prayers because they demeaned and excluded his religious beliefs, failed to respect others' beliefs and religions as mandated by his own personal beliefs, reflected a disregard of the boundary between church and state that is necessary in a pluralistic society, and coercively exposed him to publicly sponsored religious exercises.

General Allegations

The District's History of Graduation Prayer and Other Religious Activities

13. Upon information and belief, the District has a longstanding custom, practice, and policy of sponsoring graduation prayers. Plaintiffs attended the Medina Valley High School graduation ceremony in 2007, and prayer was included there. More recently, Plaintiffs attended the graduation ceremony of their eldest son in 2009, and prayer was included there as well.

14. The graduation prayers are fully facilitated by the school administration. The official graduation-ceremony program formally lists an “invocation” and “benediction,” as well as the names of the delivering students. By School tradition, the prayer-givers are selected from among the “Top Ten Percent Honor Graduates.” School officials also provide the sound system through which the prayers are delivered, select and make available the venue for the presentations, determine the order of the events, and otherwise orchestrate the presentations.

15. Upon information and belief, graduates and their students are not the only students who attend commencement ceremonies. For example, students who participate in musical presentations that are part of the program of ceremonies are expected and instructed to attend and perform at graduation.

16. The graduation prayers are presented in a school environment that is characterized by pervasive religiosity. A member of the student council is tasked with delivering a prayer over the loudspeaker at Medina Valley High School sporting events such as football games. Upon information and belief, the prayers are submitted to, and approved by, the Medina Valley High School Principal before they are presented.

17. Medina Valley High School Principal Toby Tyler regularly makes religious statements—such as asking for God’s blessing—over the school’s loudspeaker during the morning announcements. When the Schultzes complained about these loudspeaker statements, Assistant Superintendent Chris Martinez responded with a letter in which he stated that the loudspeaker messages were appropriate because, “[a]fter consulting with our school district’s legal representation, it was found that saying the word ‘God’ or the phrase ‘God Bless Them’ does not constitute an open prayer.”

18. Former Medina Valley High School Vice Principal Fletcher Turcato, who only recently left his position, likewise regularly made religious statements over the school's loudspeaker. Vice Principal Turcato also displayed a sign in his office window, with the text facing a school hallway regularly used by students, quoting Proverbs 3:5, "Trust in the Lord with all your Heart." Mr. Turcato also regularly sends emails to students and parents, from his school account, that are signed with biblical messages.

19. Upon information and belief, teachers have told students that they will "pray for you" and, when separating a male and female student engaging in a public display of affection, to "Make sure to leave a little room for Jesus between you."

Complaints About the Practice & Americans United's Letter

20. In April 2010, Christa and Danny Schultz met with Assistant Superintendent Martinez, and followed up the meeting with a letter, to object to the various religious activities that were occurring at Medina Valley High School. In response, Mr. Martinez sent a letter defending all of the school's activities and including the following passage:

While you may respectfully disagree with the format or religious portions of our district ceremonies, they are overseen and supported by our Board of Trustees. We have faith and belief that these elected officials represent the values and standards of our community. With that being said, there are no plans to change or sway from the current graduation format that has traditionally been used.

21. On October 15, 2010, Plaintiffs' counsel Americans United for Separation of Church and State sent a letter to James Stansberry, Superintendent of Medina Valley Independent School District, and Toby Tyler, Principal of Medina Valley High School. The letter explained that the inclusion of a prayer at graduation ceremonies and other events, and school employees' presentation

of other religious messages during the school day, were unconstitutional and requested that the District discontinue these practices. To date, Plaintiffs' counsel has received no response.

22. On May 25, 2011, Medina Valley High School Principal Toby Tyler orally confirmed to C.S. that this year's graduation ceremony, like past graduation ceremonies, will include prayer.

23. On May 25, 2011, Plaintiffs' counsel sent a follow-up letter to Superintendent Stansberry, Principal Tyler, and every member of the Board of Trustees of the Medina Valley Independent School District, explaining that the Plaintiffs planned to file a lawsuit challenging the activities raised in Plaintiffs' earlier letter of October 15, 2010, unless the District informed Plaintiffs' counsel, by 9 am (EST) on May 26, 2011, that no prayer would be included in the June 4, 2011 graduation ceremony.

24. On May 26, 2011, Plaintiffs' counsel received a response letter from Superintendent Stansberry. The letter does not dispute that Medina High's graduation ceremonies include prayers; nor does it offer to discontinue this practice with respect to the June 4 ceremony. Rather, the letter attempts to justify the prayers as "honor[ing] the freedom of expression of the individual speaker."

Claim for Relief: First Amendment Violation

25. Paragraphs 1 through 24 above are incorporated as if fully set forth here.

26. The First Amendment of the United States Constitution provides, in relevant part, that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech."

27. The First Amendment applies with full force and effect to the acts of local public-school officials through the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution.

28. The Medina Valley Independent School District has violated and continues to violate Plaintiffs' rights under the Establishment Clause in several ways: the primary purpose of the Defendant's conduct has been, and continues to be, to promote and advance religion; the Defendant's course of conduct has had and continues to have the effect of advancing and endorsing religion; the District's conduct — by involving school officials in the drafting, editing, revision, and final approval of at least some of the prayers — excessively entangles government with religion; and the District's conduct coercively exposes students, teachers, parents, and others to unwanted religious activity and expression.

29. Defendant's conduct also violates the fundamental constitutional right of parents to control the religious upbringing of their own children, free from governmental intrusion or interference.

30. In light of these violations, Plaintiffs are entitled to remedies under 42 U.S.C. § 1983. Through the conduct described above, Defendants have harmed Plaintiffs, are continuing to harm Plaintiffs, and will otherwise inflict future harm upon Plaintiffs, entitling the Plaintiffs to the remedies set forth in the Prayer for Relief below.

Prayer for Relief

31. Paragraphs 1 through 30 above are incorporated as if fully set forth here.

A. Declaratory Judgment

32. An actual controversy exists between the parties as to whether Defendant's conduct has violated and continues to violate the First Amendment. Accordingly, Plaintiffs respectfully request a declaratory judgment that the District's graduation prayers are

unconstitutional and that Defendants have violated, and are continuing to violate, the U.S. Constitution by engaging in the course of conduct described above.

B. Temporary Restraining Order, Preliminary Injunction & Permanent Injunction

33. Plaintiffs have no adequate remedy at law. Defendant's violations of the First Amendment to the United States Constitution have inflicted, and will continue to inflict, irreparable harm upon Plaintiffs. Plaintiffs therefore respectfully request a temporary restraining order and/or preliminary injunction prohibiting the Defendant from including any prayer — whether denominated an “invocation,” “benediction,” or otherwise — at the upcoming Medina Valley High School graduation ceremony on June 4, 2011; and a permanent injunction enjoining the District from sponsoring prayer at any future school events, including graduation ceremonies, and requiring Defendant to adopt a District-wide staff-training program to educate staff members about constitutional requirements regarding school employees' sponsorship of religious messages.

C. Nominal Damages

34. Plaintiffs request nominal damages of one dollar to each Plaintiff against the Defendant for the harm that Plaintiffs have suffered due to the District's past violations of the First Amendment and the violations that continue or occur after the filing of this Complaint.

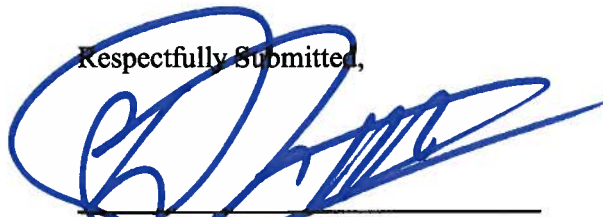
D. Attorneys' Fees and Costs

35. Plaintiffs further request an order awarding them the costs of this action, including attorneys' fees, under 42 U.S.C. § 1988 and 28 U.S.C. § 2412.

E. Other Relief

36. Plaintiffs further request any other relief that the Court deems just and proper.

Respectfully Submitted,



Donald H. Flanary, III
(Bar No. 24045877)
Goldstein, Goldstein & Hilley
310 South St. Mary's Street, Suite 2900
San Antonio, Texas 78205
Tel: (210) 226-1463
Fax: (210) 226-8367
donflanary@hotmail.com

Ayesha N. Khan* (D.C. Bar No. 426836)
Alex Luchenitser* (D.C. Bar No. 473393)
AMERICANS UNITED FOR SEPARATION
OF CHURCH AND STATE
1301 K Street NW, Suite 850
Washington, DC 20005
Tel: (202) 466-3234
Fax: (202) 898-0955
khan@au.org
luchenitser@au.org

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