

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

DOE ONE and DOE TWO,)	
)	
Plaintiffs,)	
)	
v.)	No: CA-
)	
KEYSTONE SCHOOL DISTRICT and JOHN)	
R. SLAGLE, in his official capacity as school)	
board president,)	
)	
Defendants.)	
_____)	

**MOTION FOR TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY
INJUNCTION AND FOR AN EMERGENCY HEARING**

Plaintiffs respectfully move this Court pursuant to Fed. R. Civ. P. 65 to hold an immediate hearing and issue a temporary restraining order and/or preliminary injunction enjoining Defendants, the Keystone School District's elected officials, employees, agents, assigns and anyone acting in concert with them from the following: 1) reciting or allowing any prayers, be they called an invocation, benediction or anything else, as part of the May 27, 2005, graduation program; and 2) reciting prayers publicly during School Board meetings, and as ground therefor aver as follows:

1. Plaintiffs hereby incorporate by reference the allegations contained in the Verified Complaint.
2. Plaintiffs hereby incorporate by reference the arguments contained in the Memorandum in Support of Motion For Temporary Restraining Order and/or Preliminary Injunction. As explained more fully in the Memorandum, Plaintiffs are likely to prevail on the merits of their Establishment Clause challenge to both the graduation prayer and the school-board-meeting prayers.
3. Unless this Court preliminarily enjoins official-sanctioned prayer at the graduation

ceremony on Friday, May 27, 2005, Plaintiffs will be subjected to an Establishment Clause violation for which there is no adequate remedy at law. The same applies to the prayer at school-board meetings.

4. The issuance of a temporary restraining order and/or preliminary injunction will not harm Defendants, since it cannot be in a public school district's interest to violate students' constitutional rights.

5. The issuance of the requested injunction is in the public interest because respect for our precious First Amendment freedoms is of paramount importance.

6. Since graduation is scheduled for Friday evening, May 27, 2005, Plaintiffs respectfully request that this Court rule on the motion before that time.

7. Plaintiffs' attorney sent a letter to school district officials on April 29, 2005, advising that the District's prayers at both graduation and school-board meetings violated the First Amendment and requesting that they agree immediately to stop prayer in both venues. A copy of the letter is attached as Exhibit 1. Defendants' attorneys sent Plaintiffs' counsel a letter on May 10 agreeing to the demands in the April 29 letter. A copy of the letter is attached as Exhibit 2.

8. Subsequently, however, Defendant School Board President Slagle made the following comments to the news media on May 20, 2005:

School Board President John Slagle disagrees. "I'm totally against the removal of prayers from public schools." Slagle says people in the rural Clarion County area want prayer. "I understand where they're coming from with it, but on the other hand, what's being done here should reflect what a majority of the people want to have." With graduation just about a week away, Slagle says he's looking for a way around the ACLU action.

http://kdka.com/local/local_story_140124133.html (KDKA-TV, ACLU Puts Local District on Notice, May 20, 2005). A printed copy of the Internet page is attached as Exhibit 3.

10. Additionally, local religious leaders and community members have been pressuring the School District to retain the prayers challenged in this lawsuit. Copies of other news articles are attached as Exhibits 4 (Rodney L. Sherman, ACLU to Keystone: Stop the prayers, The Clarion News, May 17, 2005); 5 (Heather Leskani, Prayer issue draws large crowd at Keystone, The Derrick & News Herald, May 23, 2005); 6 (Rodney L. Sherman, Keystone board agrees to no graduation prayer, The Clarion News, May 24, 2005); 7 (Rodney L. Sherman, Local churches rally for Keystone School District, The Clarion News, May 25, 2005).

9. Given Board President Slagle's expressed desire to circumvent the informal agreement between the parties, and the increasing pressure from community residents to retain the prayers, Plaintiffs' counsel advised District Solicitor Carl Beard on Friday, May 20, that he would need to file a lawsuit and requested that Defendants enter a consent decree memorializing the agreement contained in the April 29 and May 10 letters.

10. Defendants signed the proffered consent decree. A copy of the school district solicitor's cover letter and the signed decree are attached hereto as Exhibit 8. The original will be presented to the Court at the TRO hearing.

WHEREFORE, Plaintiff respectfully request that this Court hold an immediate hearing, consider the proposed consent decree, and then sign the order enjoining Defendants, the Keystone School District's elected officials, employees, agents, assigns and anyone acting in concert with them from the following: 1) reciting or allowing any prayers, be they called an invocation, benediction or anything else, as part of the May 27, 2005, graduation program; and 2) reciting prayers publicly during School Board meetings.

Respectfully submitted,

Witold J. Walczak
PA ID No.: 62976
AMERICAN CIVIL LIBERTIES FOUNDATION OF
PENNSYLVANIA
313 Atwood Street
Pittsburgh, PA 15213
(412) 681-7864

Attorney for Plaintiffs

May 23, 2005

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ____ day of May, 2005, a copy of the Verified Complaint, foregoing motion and accompanying legal memorandum were faxed and e-mailed to the following:

Carl P. Beard, Esq.
Patrick J. Fanelli, Esq.
Andrews & Beard
3366 Lynnwood Drive
Altoona, PA 16603

Fax: 814-943-3430

E-mail:
Cbeard@andrewsbeard.com and
Pfanelli@andrewsbeard.com

Witold J. Walczak