

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE**

KELLY BUTLER, on his own behalf and as the natural parent and next friend of his minor children, H.B. and P.B.; JASON CARR and SHARONA CARR, on their own behalf and as the natural parents and next friends of their minor children, L.C. and D.C.,

Plaintiffs,

v.

SMITH COUNTY BOARD OF EDUCATION; BARRY H. SMITH, in his official capacity as Director of Schools of the Smith County School System; KELLY BELL, in her official capacity as Principal of Smith County Middle School; and DUSTY WHITAKER, in his official capacity as Principal of Smith County High School,

Defendants.

Civil No.:

Judge:

Magistrate Judge:

**COMPLAINT**

1. Smith County, Tennessee, is a religiously diverse community. Christian, Muslim, and atheist students, among others, attend Smith County High School and Smith County Middle School in the Smith County School System. But that matters little to school officials: For years, they have routinely promoted and inculcated Christian religious beliefs by sponsoring religious activities and conveying religious messages to students at these two schools. School-sponsored prayer is common at athletic and other school events; religious iconography and messages adorn the walls of the schools; and teachers proselytize their Christian faith. All of these activities send a clear message to minority-faith and non-religious students that they are second-class members

of the school community while their Christian peers are favored by school officials. Public schools belong to all and all belong in public schools. School officials' blatant promotion of Christianity cannot be reconciled with this principle.

2. Nor can school officials' promotion of religion be reconciled with the Establishment Clause of the First Amendment to the U.S. Constitution, which prohibits public schools from imposing religious beliefs on their charges. When public schools engage in these unconstitutional activities, they harm students by coercing them into religious practices and by subjecting them to unwelcome indoctrination and religious messages; they harm parents by usurping their right to control the religious (or areligious) upbringing of their children; and they harm families and the community as a whole by sending a divisive message of religious favoritism for those who adhere to school officials' preferred faith.

3. Kelly Butler, Sharona Carr, and Jason Carr believe that their children and all students should be able to attend public school without exposure to government-sponsored religious practices and messages, and without harassment for their religious beliefs. Matters of faith are deeply personal and decisions regarding which religious beliefs to follow—if any—belong to students and their families. Indeed, the First Amendment guarantees that public-school students have an unequivocal right to attend school free from official imposition or promotion of religion. Smith County School System's longstanding custom, policy, and practice of promoting and inculcating religious beliefs and prayer has had the effect of coercing the children Plaintiffs into participating in religious observance. It has exposed them to unwanted, officially sponsored religious messages and proselytizing. And it has made them feel like outsiders in their own school community simply because they do not share the same religious beliefs as those promoted by their teachers and school staff.

4. Accordingly, Plaintiffs seek a declaratory judgment that the Defendants' customs, policies, and practices are unconstitutional because they are religiously coercive, endorse and promote religion, and have the purpose and effect of advancing religion and entangling the government with religion. Plaintiffs further seek preliminary and permanent injunctive relief enjoining Defendants from continuing their unlawful practices and other relief as set forth below.

### **JURISDICTION AND VENUE**

5. Plaintiffs bring this matter under 42 U.S.C. § 1983 for violations of civil rights under the First and Fourteenth Amendments to the U.S. Constitution.

6. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question); § 1343 (civil rights); and §§ 2201-2202 (Declaratory Judgment Act).

7. Venue is proper in this district under 28 U.S.C. § 1391(b)(1) and (2), and the Local Civil Rules for the Middle District of Tennessee. Plaintiffs and Defendants reside in this district and division, and the unlawful practices that give rise to the claims herein occurred within this district.

### **PARTIES**

8. Plaintiffs H.B. and P.B. are minor children currently enrolled at Smith County High School in Carthage, Tennessee.<sup>1</sup> Both also attended Smith County Middle School in Carthage, Tennessee. They and their father, Kelly Butler, reside in the Smith County School System. Mr. Butler sues on his own behalf and as the natural parent and next friend of both minor children.

9. Mr. Butler is a U.S. Army veteran who believes strongly in the constitutional freedoms he fought to defend while serving his country. Those freedoms include the right to decide

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<sup>1</sup> Per the Middle District of Tennessee User Manual, Version 6.2.3, Chapter 3, Section V(B) and the Amended Practices and Procedures for Electronic Case Filing, dated Aug. 21, 2015, Section 5,10(b), all pleadings refer to the minor Plaintiffs by their initials.

for himself what faith, if any, to follow, as well as the right to direct his children's religious education. Mr. Butler is an atheist. He objects to and is offended by Defendants' conduct described herein because it promotes religious beliefs to which he and his children do not subscribe and usurps his parental role in guiding his children in matters of faith. Mr. Butler feels shunned and unwelcome within the Smith County School System community because he does not share the preferred beliefs of school officials and opposes the schools' religious activities. Mr. Butler does not consent to having official religious exercise and messages imposed on him when he takes part in his children's school activities. Nor does he consent to having these unlawful activities imposed on his children, who have been harmed by school officials' repeated disregard of the law. Mr. Butler has raised his concerns directly with school officials, including the Smith County Board of Education, only to be ignored or dismissed.

10. H.B. and P.B. are also atheists. As a result of Defendants' conduct, they have felt—and continue to feel—coerced, both directly and indirectly, to participate in religious activities and expression that does not comport with their personal beliefs. They feel that they have been subjected to unwelcome indoctrination, and they feel like outsiders within their own school community because they do not share the favored religious beliefs promoted by school staff.

11. Plaintiffs L.C. and D.C. are minor students currently enrolled in Smith County High School and Smith County Middle School, respectively. L.C. also attended Smith County Middle School last year. They and their parents, Sharona and Jason Carr, reside in the Smith County School System. The Carrs sue on their own behalf and as the natural parents and next friends of L.C. and D.C. They also have a third child who is currently enrolled in Carthage Elementary School and whom they expect to attend the same middle school and high school as his elder siblings.

12. The Carrs are atheists. Like Mr. Butler, they object to and are offended by Defendants' conduct described herein because it promotes religious beliefs to which they and their children do not subscribe and usurps their parental role in directing their children's religious education. They feel shunned and unwelcome within the Smith County School System community because they do not share the favored beliefs of school officials and object to the schools' religious activities. They do not consent to having official religious exercise and messages imposed on them when they take part in their children's school activities. Nor do they consent to having these unlawful activities imposed on their children, who have been harmed by school officials' repeated disregard of the law.

13. Plaintiffs L.C. and D.C. are atheists and have been raised to make their own decisions as to matters of faith and religious belief. As a result of Defendants' conduct, they also have felt—and continue to feel—coerced, both directly and indirectly, to participate in religious activities and expression that does not comport with their personal beliefs. They feel that they have been subjected to unwelcome indoctrination, and they feel like outsiders within their own school community because they do not share the favored religious beliefs promoted by school staff.

14. All the Plaintiffs—as students in the Smith County School System or parents of students in the school system—have been—and continue to be—subject to the Defendants' customs, policies, and practices complained of herein.

15. Defendant Smith County Board of Education is a Smith County governmental organization with the power to sue and be sued.

16. The Board controls, operates, and supervises all Smith County School System schools, including Smith County High School and Smith County Middle School. The Board is responsible for prescribing and enforcing rules and regulations at all school system schools.

17. Defendant Barry H. Smith is sued in his official capacity as the Director of Schools of the Smith County School System. As such, he is a resident of Smith County. He is responsible for, among other things, implementing and enforcing Board rules, regulations, and policies.

18. Defendant Kelly Bell is sued in her official capacity as the Principal of Smith County Middle School. As such, she is a resident of Smith County. She is the decision-maker on day-to-day operational issues at Smith County Middle School and is responsible for enforcing school rules, regulations, and policies.

19. Defendant Dusty Whitaker is sued in his official capacity as the Principal of Smith County High School. As such, he is a resident of Smith County. He is the decision-maker on day-to-day operational issues at Smith County High School and is responsible for enforcing school rules, regulations, and policies.

20. At all relevant times, Defendants were acting and continue to act under color of law.

### **FACTUAL ALLEGATIONS**

21. Plaintiffs re-allege and incorporate by reference all of the preceding paragraphs in this Complaint as if fully set out herein.

22. Defendants have a custom, policy, and practice of promoting and inculcating religious beliefs and practice by sponsoring prayer and religious activities, proselytizing, and otherwise displaying and disseminating religious messages and religious texts.

23. Defendants were aware of, condoned, carried out, endorsed, and enabled the religious activities and promotion of religious messages described herein.

24. Since enrolling in the Smith County School System, the minor Plaintiffs have been subjected to Defendants' school-sponsored prayer, proselytizing, and other means of religious

inculcation on numerous occasions. As alleged above, these practices have caused the minor Plaintiffs to feel coerced, both directly and indirectly, to participate in religious activities and expression that does not comport with their personal beliefs. These practices are unwanted and unwelcome by the minor Plaintiffs, who feel like outsiders within their own school community because they do not share the favored religious beliefs promoted by school staff.

25. In connection with their parental duties and community membership, Mr. Butler and the Carrs also have been exposed to official school promotion of religion. As alleged above, they are offended because these practices promote religious beliefs to which they and their children do not subscribe and usurp their parental role in directing their children's religious education. The parental Plaintiffs feel shunned and unwelcome within the Smith County School System community because they do not share the favored beliefs promoted by school officials.

**School-sponsored prayer**

26. School staff often incorporate official prayer into various school events, including school-day assemblies, athletic events, and graduation ceremonies, among other activities.

27. On Monday mornings throughout the school year, Smith County Middle School holds mandatory assemblies in the gymnasium known as "family meetings." At these assemblies, Principal Bell solicits prayer requests from students and staff. After demanding that students and staff provide subjects for prayer requests, Bell sometimes adds her own prayer request. She then instructs students over a microphone to "bow your heads and think of these people" or to "keep these people in your prayers." Staff and nearly all students bow their heads to pray silently during this period. Last year, students who laughed or talked during this prayer time were admonished to be quiet and kicked out of the gym and sent to the principal's office if they did not comply with this direction.

28. On mornings when there is no “family meeting,” D.C.’s teacher adopts a similar practice. She first asks students to provide prayer requests; then, after students identify subjects for prayer, she announces that it is time for a moment of silence and bows her head to pray. D.C.’s classmates follow suit.

29. Although the Board of Education’s moment-of-silence policy states that a school “principal will call the students to order and announce that a moment of silence is to be observed at the beginning of each day” and that “[n]o other action shall be taken by a teacher other than to maintain silence,” the policy itself explicitly promotes and encourages prayer in its title: “Prayer and Period of Silence.”

30. Officials at both Smith County High School and Smith County Middle School have used the schools’ observance of Veterans Day as an opportunity to impose prayer on students.

31. Last week, middle-school staff gathered students, including D.C., in the gymnasium for a mandatory Veterans Day assembly. After introductory remarks made by Principal Bell, the podium and microphone were turned over to a student to lead everyone in prayer. The prayer-giver instructed those present to bow their heads and pray for the men and women who died for our country. Nearly all students and staff bowed their heads and prayed as he recited a prayer.

32. Later, about halfway through the same assembly, the podium and microphone were turned over to a second student to give a second prayer. Again, nearly all students and staff bowed their heads to pray while the student recited the prayer.

33. This is at least the second year in a row that the middle school has incorporated official prayer into its Veterans Day assembly. Last year, Mr. Butler, a U.S. Army veteran who served tours in Iraq and Afghanistan, attended the event. L.C. and P.B. were also in attendance.



Before the mandatory assembly concluded, Principal Bell announced that there would be a prayer and introduced the designated student prayer-giver. Bell then passed the student a microphone, and the student delivered a Christian prayer in Jesus's name. Principal Bell, teachers, and nearly all students bowed their heads for the prayer. When Mr. Butler informed Principal Bell after the assembly that he found the prayer disrespectful of his and other veterans' service, she shouted at him and asked police officers who were present at the event to escort him off school property.

34. Last year, on Veterans Day, a high-school administrator interrupted class instruction to deliver a special Veterans Day prayer over the school's public-address system.

35. Defendants' athletics programs and events also incorporate official prayer. Teachers, coaches, and staff give prayers or participate in prayer with students before, during, and after various sporting events and activities. For example, every Smith County High School home football game begins with a Christian prayer delivered over the public-address system. H.B. must attend football games as a member of the marching band, and other Plaintiffs attend games on occasion.

36. Some of the minor Plaintiffs also have attended football games at Smith County School System's other high school, Gordonsville High. Those games also feature Christian prayer. For instance, at one home game this season, the announcer prayed:

Lord we just want to thank you so much for all the blessings that you've given us. We know that every good and perfect gift comes from above. Lord we just pray that you be with all the players here tonight, help them, keep them free from injury, help them play with good sportsmanship, and help us all here to do everything to your glory Lord, as we're doing it for you. Lord be with our friends from Pickett County as they make their way home after the game. Lord keep them safe, get them there safely. And Lord we want to thank you most of all for your son Jesus Christ, Lord and he died for our sins Lord and I pray that every one of us here knows that and realizes that—that we have eternal life through him since in his name we pray. Amen.

37. Moreover, athletic coaches frequently give prayers or participate in prayer with student-athletes before games and practices. For example, P.B. is a member of the Smith County High School girls' soccer team. Just before the beginning of every game, the coach announces to the team members that "it's time to pray." He then gathers them into a prayer circle to hold hands and bow their heads. Once in the prayer circle, the coach asks the senior players on the team to begin reciting the prayer; the coaches and other team members join in with the recitation after the first few words. The prayer is explicitly Christian.

38. The coaches of the Smith County High School boys' soccer team likewise lead or participate in official prayers with students. As a student manager for the boys' soccer team, P.B. will be exposed to these official prayers when the boys' soccer season begins in January.

39. Last school year, every (or nearly every) Smith County High School pep rally (all held during regular school hours) included official prayer. Like all students, H.B. was required to attend these events, where she also performed as a member of the marching band.

40. Smith County Middle School has likewise incorporated prayer into pep rallies, which take place during the school day and are mandatory. For example, at a pep rally in support of the boys' basketball team in February 2019, Principal Bell selected a student prayer-giver who delivered a prayer in Jesus's name.

41. Graduation ceremonies also include official prayer. At the beginning of Smith County High School's 2019 graduation ceremony, a school official asked the audience to "please remain standing," introduced the designated prayer-giver—a student who was waiting next to school officials—and informed the audience that the student would lead everyone in prayer. The school official then ceded the microphone to the student, who delivered a prayer in Jesus's name. The school official then returned to the microphone and continued to welcome the audience "on

behalf of the faculty, staff, and administration of Smith County High School, Smith County Board of Education, Central Office staff, and Director of Schools, Mr. Barry H. Smith.”

42. The same graduation ceremony featured a benediction prayer as well. After presenting students as the graduating class of 2019, a school official announced that the benediction would be given by a student, who prayed:

God we just want to come to you today and first off give you thanks and give you thanks for getting us to this point in our lives. And God we put glory and acknowledgement in you . . . that it is only through you and your son Jesus and his sacrifice that we’re graduating . . . And God we pray that whatever direction we take today, help us go in the direction that you point us towards God. God help keep us safe in your will and all we do and guide our every footstep, decision, and action. And we give you all the praise, all the glory. In Jesus’s name, Amen.

43. As a member of the concert band, H.B. will be required to attend and perform at the 2020 graduation ceremony for Smith County High School. P.B. and L.C. will also attend the ceremony to witness their friends graduate, and P.B. will also take photos at the ceremony for the yearbook.

44. Like the high school’s 2019 graduation, the Smith County Middle School May 2019 graduation ceremony for eighth-graders also included official prayer. All Plaintiffs attended the ceremony to support P.B. and L.C., who were eighth graders at the time.

**Other proselytizing and promotion of religious activities and messages**

45. In addition to their sponsorship of prayer, Defendants engage in a variety of other practices that proselytize and promote religion.

46. For example, in October 2019, Smith County Middle School officials invited representatives from The Gideons International to visit D.C.’s fifth-grade, first-period class to distribute Bibles. Principal Bell escorted these individuals to D.C.’s class, where students were

instructed to raise their hands if they wanted a Bible. D.C. was the only person in his class who did not raise his hand to receive a Bible.

47. On information and belief, The Gideons were permitted to distribute Bibles to all fifth-graders at the middle school in October 2019.

48. On information and belief, Defendants authorize the distribution of Bibles to fifth-graders each year. For example, P.B.'s fifth-grade teacher distributed Bibles to her and her classmates.

49. The Bible distributions are not the only time that Defendants have made known their preference for the Bible.

50. Last school year, several Bibles were perpetually displayed on side tables adjacent to chairs in the breezeway, located just inside of the middle school's front doors. A Bible was also frequently displayed on a decorative table in the hallway leading from the middle school's main entrance, alongside rotating flower arrangements and students' art work. In the school's main administrative office, several Bibles were continuously displayed on a table. Defendants had no permissible educational or pedagogical reason for creating these displays.

51. Last school year, Martha Holladay, the library teacher at Smith County Middle School, also frequently displayed Bibles on the library's information desk, as well as on bookstands at the entrance to the library. She had no permissible educational or pedagogical reason for creating these displays.

52. This year, at Smith County High School, economics teacher Janet Bailey has lined up several Bibles on a bookshelf in her classroom. She has no permissible educational or pedagogical reason for doing so.

53. In addition to specially displaying Bibles, Defendants frequently display religious iconography and other religious messages in school facilities. They have no permissible educational or pedagogical reason for doing so.

54. For example, a mural in Smith County High School's weight-training room depicts a giant Latin cross, alongside the words "In God We Trust." Athletic teams, such as the boys' football team and girls' soccer team, use the room for weight-training purposes.

55. The weight-training room also has an indoor field with artificial grass, which is used during inclement weather by various sports teams, including the boys' football, boys' soccer, and girls' soccer teams. As noted above, P.B. is a member of the girls' soccer team and will also serve as a manager for the boys' soccer team starting this January.

56. The weight-training room also abuts a parking lot in which the marching band practices. Band members, such as H.B., must pass through the facility (and by the cross display) to use the restroom during rehearsal.

57. In addition to indoor team practice and weight training, the facility is used for other functions, such as the county-wide field day, which is attended by younger children from across the school system and neighboring school systems.

58. Last school year, Bible verses and other religious messages were also prominently posted in the halls of Smith County High School. A sign displayed on one classroom door stated, "Whatever you do, work at it with all your heart, as working for the Lord.' – COLOSSIANS 3:23." A sign on another classroom door counseled, "TRUST in the LORD with all your Heart and lean not on your own understanding' – PROV 3:5." And a large banner that hung outside the school's cafeteria proclaimed, "Your Talent is GOD'S gift to you[,] what you do with it is your gift back to GOD."

59. These signs were put up over the course of the school year. Although they were removed in the summer, presumably as part of a school-wide cleaning for the current school year, religious signs have begun to appear again: The classroom doors of science teacher Jason Harville and economics teacher Janet Bailey feature their names and a citation to a Bible verse.

60. At Smith County Middle School, in one bathroom, a decorative sign features a Latin cross and states: “‘With God all things are possible.’ Matthew 19:26.” Last year, another middle-school classroom featured a poster, declaring, “God Bless” at the top, amidst the words “Liberty” and “Justice” on the sides. And, in recent years, Ms. Holladay has displayed a Latin cross and other religious messages as decorations in the middle-school library.

61. School staff use their official positions to proselytize students and promote their personal religious beliefs in other ways as well.

62. Ms. Holladay frequently promotes her religious beliefs to students. For example, she has told students that they would not get in trouble “if you had Jesus in your life.” Near Easter, she screened a film about the crucifixion of Jesus during regular class hours for H.B. and her classmates. On information and belief, that film was called, “The Passion of the Christ.”

63. In May of this year, Ms. Holladay also distributed notes to all graduating middle-school students, including P.B. and L.C., featuring a biblical quotation. The notes stated, “Regardless of how we part, whether you were a blessing to my heart or a challenge to my prayer life, I thank God for the opportunity to know you.” The notes concluded, “I would like to share with you one of my favorite scriptures that helps me get through this life,” and then quoted Micah 6:8 (“He has shown you, O mortal, what is good. And what does the Lord require of you? To act justly and to love mercy and to walk humbly with your God.”).

64. At Smith County High School, H.B.'s math teacher, Charles Gross, has told students who have gotten in trouble that they should go to church or need Jesus in their life. In one instance, he made a remark of this nature after becoming irate because a student had repeatedly failed to turn in homework assignments.

65. Last year, on Homecoming Day, H.B.'s class was redirected to Janet Bailey's economics classroom for the homeroom period. After students arrived, Ms. Bailey started the day by reading aloud from the Bible, explaining that this was how she started all of her classes and that she would do the same that day.

66. On information and belief, Ms. Bailey has ignored students' objections that her Bible readings are unlawful and continues the Bible readings this school year.

67. Students following the high school's "university track" curriculum, including H.B. and P.B., must take Ms. Bailey's economics class in order to graduate.

68. Amy Gentry, a health occupations teacher, has included biblical quotations on the website that she directs students to visit in order to access her class syllabi and class paperwork.

69. In addition to the Bible distributions detailed above, Smith County Middle School staff have invited outside groups into school to proselytize students on other occasions.

70. Middle-school officials have regularly invited local adults onto campus to hold religious assemblies during instructional time. Last year, with the aid and participation of school staff, the visitors hosted "FCA" meetings in the gymnasium several mornings each month. Staff announced over the intercom that the assemblies were taking place. Teachers and administrators, including Ms. Holladay, sometimes stood at the gym entrance encouraging students to attend, noting that students could play games and have fun during the events. The assemblies ran ten to twenty minutes after the beginning of the school day, when classes had already begun. Teachers

often attended the FCA events, too. Last school year, students, such as P.B., whose first-period teachers attended the assemblies, had to wait in the hallway outside of their locked classrooms for up to twenty-five minutes until the teachers returned and belatedly began teaching their classes.

71. On information and belief, school officials have continued holding religious FCA meetings in the gymnasium during instructional time this school year.

72. As another example, on the evening of September 12, 2019, Smith County High School's music department presented a religious program entitled, "An Afternoon of Hymns," in the school auditorium. School officials invited two local church choirs to sing at the event and required members of the concert band, including H.B., to perform alongside the church choirs or receive a grade of zero for the concert.

73. The music department's promotional material for the concert featured a photo of the inside of a cathedral. And, during the event, a representative of one of the church choirs took to the microphone and launched a call-and-response of sorts:

*Speaker:* I must say this is a great way to end a hard day of work isn't it.

*Audience:* Amen.

*Speaker:* What a blessing to be able to come together as a community and sing songs about the one that made us.

*Audience:* Amen.

*Speaker:* Isn't that great? Thank you for letting us be here. We're a little short in our number today, but we're going to do our best and sing from our hearts and hopefully it will be a blessing to you.

After these remarks, her choir then performed the hymn, "Jesus, What A Beautiful Name."

74. School officials have touted their unconstitutional activities through myriad public social-media postings.



75. For example, official social-media accounts for the high school's football team and health-occupations club (HOSA), as well as the middle school's official Facebook page, have posted photos or videos of the weight-training room's mural featuring a giant Latin cross. Murf Murray, the high school's head football coach, likewise shared a photo of the Christian mural on his Facebook page in April 2019.

76. One month later, in May 2019, Coach Murray posted a series of photos of students in the weight-training room, stating, "Suddenly the weight room is full! Keep the kids coming. Come by and see me if you want your kid to be part of building something special! Praise God!"

77. School staff have posted photos on official or personal social-media accounts of athletic coaches praying with students. For example, in October 2019, the official Facebook page for the Smith County High School girls' soccer team featured a photo of the team and coaches praying together.

78. In July 2019, Coach Murray posted a photo of his team praying in a church and wearing their football jerseys. The photos were posted on the coach's Twitter account, which uses the handle, "COACH\_MURRAY34," as well as his Instagram account, which uses the handle "coach\_murray34." Both the Twitter and Instagram posts were accompanied by a message from the coach, stating, "Sitting at The Night of Champions Dinner in Cookeville listening to National Champion Coach Gene Chizik with my guys, thinking just how blessed we are to have each other. This team is special to me! Love OUR TEAM! #BLESSEDCOACH #FAITHFAMILYFOOTBALL #OWLNATION."

79. The football team's official Facebook page posted the same photo of the football team in church, wearing their jerseys and praying.

80. The middle school's official Facebook page featured photos of the FCA assemblies run on campus by outside guests during instructional time, and school officials commented on the post, praising the arrangement.

81. Official social-media accounts also have been used to broadcast other religious messages. Prayer requests and directives to pray are frequently posted on the high-school football team's official social-media accounts. Last week, for example, the official Facebook page for team posted a prayer request. When a commenter on one of the posts stated, "I am so proud of you for your guidance showing these teenagers the power of prayer," the official account replied, "[T]hank you. They are awesome young men and a lot will be great spiritual leaders in this county."

82. Similarly, the Facebook page for the girls' soccer team posts prayer requests. And as another example, in July 2019, the coach for the Smith County High School girls' basketball team used the team's official Facebook account to celebrate the conclusion of the team's summer camp, proclaiming, "It is when you learn to have a servant's heart, that you truly become a child of the Lord."

**CLAIM FOR RELIEF: ESTABLISHMENT CLAUSE VIOLATIONS**

(42 U.S.C § 1983)

83. Plaintiffs re-allege and incorporate by reference all of the preceding paragraphs in this Complaint as if fully set out herein.

84. By Defendants' customs, practices, and policies alleged above, Defendants have violated, and are continuing to violate, Plaintiffs' rights under the Establishment Clause of the First Amendment and Fourteenth Amendment to the U.S. Constitution. The customs, practices, and policies established by Defendants are the cause in fact of the constitutional violations.

85. Defendants' customs, practices, and policies coercively expose Plaintiffs to unwanted religious exercise and messages sponsored by school officials.

86. Defendants' customs, practices, and policies officially favor religion over non--religion, and officially favor Christianity above all other faiths.

87. Defendants' customs, practices, and policies improperly endorse religion. A reasonable, objective student, parent, or other observer aware of the conduct alleged above would conclude that the Defendants have endorsed and continue to endorse religion at their public schools.

88. Defendants' customs, practices, and policies, in addition, have the primary purpose and effect of promoting and advancing religion and excessively entangle Defendants with religion.

89. Defendants' customs, practices, and policies also usurp the role of parents in controlling the religious (or areligious) upbringing of their children.

90. Unless restrained by this Court, Defendants will continue to subject Plaintiffs to these unconstitutional customs, policies, and practices, causing Plaintiffs irreparable harm by denying their fundamental constitutional right to be free from governmental promotion of religious beliefs and messages and governmental coercion of religious practices.

91. Plaintiffs have no adequate remedy at law for the denial of their fundamental constitutional rights.

### **RELIEF REQUESTED**

Plaintiffs respectfully request the following relief in the form of a judgment against the Defendants Smith County Board of Education, Barry H. Smith, Kelly Bell, and Dusty Whitaker, jointly and severally:

- A. An order declaring Defendants' customs, policies, and practices alleged above to be in violation of the Establishment Clause of the First Amendment to the U.S. Constitution;

B. An order preliminarily and, thereafter, permanently enjoining Defendants and their officers, agents, affiliates, subsidiaries, servants, employees, successors, and all other persons or entities in active concert or privity or participation with them, from continuing their unlawful conduct at Smith County Middle School, Smith County High School, and all schools within the Smith County School System, and specifically prohibiting Defendants from:

1. Participating in, organizing, promoting, advancing, aiding, endorsing, or causing prayer, religious devotionals, or proselytizing during class and school-sponsored events;
2. Encouraging students to participate in religious events and activities, or otherwise promoting religious events and activities;
3. Displaying religious messages and holy texts in a manner that (a) does not have a non-religious, educational, pedagogical, and curriculum-related purpose, or (b) conveys official approval of its religious message or content;
4. Teaching biblical doctrine as fact or otherwise endorsing, promoting, or seeking to bolster biblical doctrine;
5. Conveying messages endorsing religion;
6. Otherwise unconstitutionally endorsing religion or religiously coercing students or parents; and
7. Retaliating against Plaintiffs or their family members for objecting to Defendants' unlawful practices and bringing this action;

C. An order directing Defendants to provide a copy of the written injunction to all Smith County School System officials, employees, and agents;

- D. Entry of judgment for Plaintiffs against Defendants for nominal damages;
- E. An award, from Defendants to Plaintiffs, of reasonable attorneys' fees and costs incurred in connection with this action, pursuant to 42 U.S.C. § 1988;
- F. An order retaining this Court's jurisdiction of this matter to enforce the terms of the Court's orders; and
- G. Such further and different relief as is just and proper.

Respectfully submitted,

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*\*Motion for Pro Hac Vice Admission Pending*