

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

JOHN “P”, Individually and as next
friend of his minor children, JANE “P”,
and JOAN “P”,

Plaintiffs

CIVIL ACTION

NUMBER:

versus

TANGIPAHOA PARISH SCHOOL BOARD,
ANN SMITH, School Board Member, District
A, ROBERT POTTS, School Board Member,
Member, District B, LEONARD GENCO,
School Board Member, District C; AL LINK,
School Board Member, District D, DANNY RIDGEL,
School Board Member, District E, ROBERT
CAVES, School Board Member, District F, ERIC
DANGERFIELD, School Board Member, District G,
SANDRA BAILEY-SIMMONS, School Board Member,
District H, ROSE DOMINQUEZ, School Board Member,
District I, MARK KOWLE, Superintendent,
Tangipahoa Parish School System, DALE BROUILLETTE,
Principal, Tangipahoa Parish School System PM
School, and ANTHONY MASSI, Teacher, Tangipahoa
Parish School System PM High School,
Defendants

SECTION:

MAGISTRATE
DIVISION:

COMPLAINT

NOW INTO COURT comes Plaintiff, JOHN “P”, individually and as next friend of his
minor children, JANE “P” and JOAN “P”, and respectfully represents:

I. JURISDICTION

1. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4) for
causes of action arising under the First and Fourteenth Amendments to the Constitution of the
United States of America, 42 U.S.C. § 1983 and 1988, and 28 U.S.C. §§ 2201 and 2202.

Supplemental jurisdiction is invoked pursuant to the Constitution and laws of the State of Louisiana.

II. NATURE AND CAUSE OF ACTION

2. This is an action for declaratory and injunctive relief declaring the policy and practice of the Defendants, Tangipahoa Parish School Board, the school board members, and the superintendent, permitting, authorizing, encouraging and acquiescing in the delivery of invocations at public school commencements which are in violation of *Lee v. Weisman*, 505 U.S. 577 (1992) and *Jones v. Clear Creek Independent School District*, 977 F.2d 963 (5th Cir. 1992), *cert. denied* 113 S.Ct. 2950 (1993).

III. PARTIES

3. Plaintiffs herein are:

- a. JOHN "P", a person of full age of majority and the father and next friend of his minor children, JANE "P" and JOAN "P". He is proceeding individually and on behalf of his minor children, JANE "P" and JOAN "P".
- b. JANE "P" and JOAN "P", the minor children of Plaintiff, JOHN "P". They are presently students in the Tangipahoa Parish School System, and will be until the time of their graduation, which is several years away.

4. Defendants herein are:

- a. TANGIPAHOA PARISH SCHOOL BOARD ("BOARD"), a body politic authorized to sue and be sued in its own name. *See* La.Rev.Stat. 17:51.
- b. ANN SMITH, ROBERT POTTS, LEONARD GENCO, AL LINK, DANNY RIDGEL, ROBERT CAVES, ERIC DANGERFIELD, SANDRA BAILEY-SIMMONS, and ROSE DOMINQUEZ, members of the Tangipahoa Parish

School Board, representing Districts A-I, respectively. They are named parties in their official capacity.

- c. MARK KOLWE, interim superintendent, Tangipahoa Parish School Board. He is a named party in his official capacity.
- d. DALE BROUILLETTE, principal, Tangipahoa Parish School System PM High School. He is a named party in both his individual and official capacities.
- e. ANTHONY MASSI, teacher, Tangipahoa Parish School System PM High School. He is a named party in both his individual and official capacities.

IV. FACTS

5. Plaintiff, JOHN “P”, is a domiciliary and resident of the town of Loranger, parish of Tangipahoa, state of Louisiana. He is a taxpayer and registered voter. He is the father of Plaintiffs, Jane “P” and Joan “P”, both minors. He and his family, including Plaintiffs, Jane “P” and Joan “P”, attended the commencement exercises for Tangipahoa Parish School System, “TPSS,” PM High School, which were held on May 17, 2007.

6. Upon arriving at the commencement exercises, Plaintiff, John “P”, obtained a program which listed an invocation to be given by a student. A copy of the program is attached hereto as “Exhibit 1.” Much to his shock and bewilderment, the invocation was not given by a student, but by a teacher and Defendant herein, Anthony Massi. In addition to the friends and relatives of the graduating students, present at the commencement exercise were faculty members and administrators, including, but not limited to, the principal of TPSS PM High School and Defendant herein, Dale Brouillette. Also present was Defendant herein and recently elected school board member Ann Smith.

7. The invocation commenced with “Lord we thank you for . . . and ended with “We pray for these things in Jesus’ name, Amen.”

8. Plaintiffs found the invocation to be offensive and objectionable, for it gave the distinct impression, and had the purpose and effect, of affiliating the Board with advancing and endorsing one specific faith or religious belief: Christianity. Plaintiffs were placed in an untenable and unconstitutional dilemma: they could exit the commencement exercise until the invocation was completed, or they could remain there, in total violation of their constitutionally protected beliefs. The Establishment Clause of the First Amendment to the United States Constitution prohibits the Board from placing individuals in such a quandary. *See Lee v. Weisman*, 505 U.S. 577, 596, 112 S.Ct. 2649, 2660, 120 L.Ed. 2d 467, 486 (1992) (“It is a tenet of the First Amendment that the State cannot require one of its citizens to forfeit his or her rights and benefits as the price of resisting conformance to state-sponsored religious practices.”)

9. Plaintiffs found it equally offensive and objectionable that Defendants, Ann Smith and Dale Brouillette, condoned, approved of, participated and acquiesced in the giving of the invocation by Defendant Massi. They knew and/or should have known that the giving of the invocation was in violation of the Establishment Clause of the First Amendment to the United States Constitution. They did nothing to prevent it from occurring, nor did they take any action to curtail it once it had begun.

10. In doing the acts herein complained of, Defendants, acting individually and/or collectively, or through their agents and employs, and under color of state law, intentionally, wilfully and wrongfully deprived Plaintiffs of rights secured by the constitution and laws of the United States of America and the state of Louisiana.

11. At the time of Defendants' conduct, it was clearly established in law that defendants could not authorize, permit, participate or acquiesce in the recitation of sectarian invocations at commencement exercises.

12. At the time of the recitation of the sectarian invocation by Defendant Massi, it was clearly established in law that a faculty member could not lead or initiate invocations at school sponsored events, particularly commencement exercises.

13. Defendants knew, or should have known, that the giving of an invocation by a faculty member at a commencement exercise was a violation of the Establishment Clause of the First Amendment to the United States Constitution, and the Constitution and laws of the state of Louisiana.

14. At all times relevant hereto, Defendant Massi was acting within the course and scope of his employment with the Tangipahoa Parish School System.

V. FIRST CAUSE OF ACTION:

15. Plaintiffs reallege and reaver all of the allegations contained in paragraphs 1 through 14 of the Complaint.

16. 42 U.S.C. § 1983 prohibits Defendants from depriving Plaintiffs of “rights, privileges and immunities secured by the Constitution and laws” of the United States.

17. The Establishment Clause of the First Amendment to the United States Constitution provides that a state “shall make no law respecting an establishment of religion.” U.S. CONST. Amend. I. It is made applicable to the local school boards through the Fourteenth Amendment. *See Everson v. Bd. of Educ.*, 330 U.S. 1, 8, 67 S.Ct. 504, 508, 91 L.Ed. 711 (1947) (applying the Establishment Clause to the states).

18. The Establishment Clause of the First Amendment forbids the enactment of any law or practice “respecting an establishment of religion.” States are required to pursue a course of complete neutrality toward religion. *See County of Allegheny v. American Civil Liberties Union, Greater Pittsburgh Chapter*, 492 U.S. 573, 106 L.Ed.2d 472, 109 S.Ct. 3086 (1989).

19. The invocation delivered by Defendant Massi at the beginning of the commencement exercise for TPSS PM High School was delivered with the actual purpose of endorsing and perpetuating religion. There was no secular purpose for the commencement invocation given by Defendant Massi.

20. The commencement invocation was delivered at a school function, employing equipment provided and paid for by the Tangipahoa Parish School System, given by an employee of the Tangipahoa Parish School System, in the presence of a Tangipahoa Parish School Board member, and the principal of the Tangipahoa Parish School System PM High School. Under this set of circumstances, a message is clearly conveyed that the school endorses and/or approves the message.

21. Defendant Massi, the person delivering the commencement religious invocation was selected by, and is an employee of, the Tangipahoa Parish School System. Clearly, there is excessive entanglement with religion.

22. Defendants, acting individually, and/or in concert with each other, have repeatedly permitted, authorized and/or acquiesced in the delivery of religious invocations prior to and during school functions in violation of the Establishment Clause of the First Amendment to the United States Constitution.

23. Defendants' actions are designed to show, and have had the affect of showing, favoritism towards religion, which is in violation of the Establishment Clause of the First Amendment to the United States Constitution.

24. Plaintiffs have been harmed by Defendants' actions. Plaintiffs were placed in an unconstitutional quandary, to wit: to remove themselves from the promotional exercises, or to sit through the invocation, in violation of their constitutionally protected beliefs.

25. Plaintiffs were reluctant to voice their objections with respect to this constitutional transgression, fearful of ostracization and retaliation.

VIII. DECLARATORY JUDGMENT

26. Plaintiffs are entitled to declaratory judgment pursuant to 28 U.S.C. § 2201, and in accordance with Federal Rules of Civil Procedure Rule 57, declaring that defendants actions are in violation of the Establishment Clause of the First Amendment.

IX. INJUNCTIVE RELIEF

27. Plaintiffs have suffered, and will continue to suffer, immediate and irreparable harm in the event that Defendants are allowed to continue permitting, authorizing, encouraging, participating and acquiescing in the delivery of unconstitutional invocations during commencement exercises. Based on the Defendants' repeated and flagrant disregard for and violation of the Establishment Clause, there is a strong likelihood that this incident will reoccur.

28. Plaintiffs' minor children are still in the Tangipahoa Parish School System and fear that this unconstitutional act, if not enjoined, with reoccur.

29. Accordingly, temporary, preliminary and permanent injunctive relief is hereby requested pursuant to Federal Rules of Civil Procedure, Rule 65, and in accordance with the Civil Rights laws of the United States.

X. DAMAGES

30. As a result of Defendants' violations of Plaintiffs' constitutional rights, the Plaintiffs have suffered, or will suffer, damages, including mental anguish and emotional distress.

31. Plaintiffs also request that they be awarded nominal damages.

XI. ATTORNEY'S FEES

32. Plaintiffs request, and are entitled to, an award of attorney's fees.

WHEREFORE, Plaintiffs pray that Defendants be duly cited to appear and answer this Complaint; that they be served with a copy of same and that after all legal delays have expired and due proceedings be had, there be judgment in favor of Plaintiffs, and against Defendants, for injunctive and declaratory relief, all damages, attorney's fees and costs of these proceedings, together with interest and all legal and equitable relief.

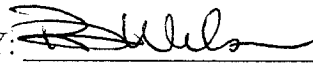
Respectfully submitted:

RONALD L. WILSON (#13575)

Cooperating Attorney, American Civil
Liberties Union Foundation of Louisiana

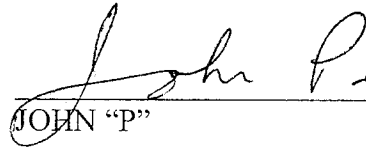
KATIE SCHWARTZMANN (#30295)
P.O. Box 56157
New Orleans, Louisiana 70156

Staff Attorney for the American Civil
Liberties Union Foundation of LA

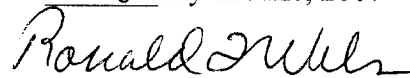
BY: 

VERIFICATION

I, JOHN "P", verify that I have read the foregoing Complaint and the facts and allegations contained therein are true and correct to the best of my information and belief.


JOHN "P"

Sworn to and before me, Notary,
this 5th day of June, 2007


RONALD L. WILSON (#13575)
Commission expires upon death

Tangipahoa Parish P.M. Staff

Dale Brouillette, Principal

Rosie Jackson, Special Needs

Sheila Picou, Special Needs

Orlisa DePhillips

Counselor

Katherine Meadors

Counselor

Mary Johnson

Librarian

Pam Ricks

Librarian

Glenn Miller

Secretary

John Frazier

Security

Jackie Hookfin

Security

Larry Short

Security/Custodian

Faculty

Donna Agrone

Jason Oller

Janet Bankston

Jodi Peco

Angela Corkern

Katherine Raborn

Donald Currier

Ricky Saragusa

Carl Galmon

Matthew Seavers

Anthony Massi

Michael Stant

Mario Muralles

Elizabeth Vineyard

Patricia Oglesbee

Michael Young

Tangipahoa Parish P.M. High School

making dreams come true

Tangipahoa Parish P.M. School

Spring Commencement Exercise

Thursday, May 17, 2006 7:00 P.M.



The Kiva Auditorium

on the campus of

Southeastern Louisiana University

Tangipahoa Parish P.M. High School
Class of 2007

Program

Inspirational Music	Jazz Combo
Processional	Seniors
	Music/ Reginald Sanders
Invocation	Delshone Leon Maryland
Presentation of Colors	Color Guard/ Amite High School
Pledge	Emily Lyon
America the Beautiful	Lamonte Jackson
Student Testimonies	
Welcome	Principal, Dale Brouillette
Recognition of Guest	Principal, Dale Brouillette
Presidential & Academic Awards	Rosie Jackson / Dale Brouillette
Introduction of Speaker	Dale Brouillette
Commencement Address	Ann Smith Tangipahoa Parish School Board
Awarding of Diplomas	TPPMHS Staff
Recessional	