

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

JANE DOE, on her own behalf and on behalf of her children,
JORDAN DOE and JAMIE DOE, as their parent and next
friend,

Plaintiffs,

vs.

DONIPHAN R-I SCHOOL DISTRICT,

DONIPHAN R-I SCHOOL BOARD,

KEVIN SANDLIN, in his official capacity as superintendent of
Doniphan R-I School District,

MARK THOMPSON, individually and in his official capacity
as principal of Doniphan Elementary School,

JASON ROSE, individually and in his official capacity as
assistant principal of Doniphan Elementary School,

LAWRENCE McCANN, individually and in his official
capacity as a teacher at Doniphan Elementary School,

JANICE GRIFFIN, individually and in her official capacity as a
teacher at Doniphan Elementary School,

Defendants.

Case No.:

COMPLAINT FOR
NOMINAL DAMAGES
AND DECLARATORY
AND INJUNCTIVE RELIEF

INTRODUCTION

1. This suit is a challenge to the introduction of improper and prohibited religious activity and proselytization into a public elementary school. School officials have engaged in a pattern of religious activity despite its inconsistency with the official policies of the school district and the First Amendment.

2. The plaintiffs seek nominal damages, declaration that the defendants have violated the Establishment Clause of the First Amendment to the Constitution of the United States, and preliminary and permanent injunctive relief.

JURISDICTION AND VENUE

3. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343, 42 U.S.C. § 1983, and 28 U.S.C. §§ 2201 and 2202.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because the Defendants reside in this District and the events or omissions giving rise to the claims at issue occurred in this District.

5. Divisional venue is proper in the Southeastern Division of this District because defendants reside in Ripley County, Missouri, and the events or omissions giving rise to the claims at issue occurred in Ripley County. Local Rule 2.07.

PARTIES

6. Plaintiff Jane Doe¹ is a resident of Ripley County, Missouri. She is the parent of three children, two of whom – Jordan Doe and Jamie Doe – attend Doniphan Elementary School. Doe is not raising her children in a Christian-based faith system. She

¹ Janice Doe as well as her children, Jordan Doe and Jamie Doe, seek to proceed under pseudonyms because they are challenging governmental activity and are required to disclose intimate information about Janice Doe's raising of her children. *Doe v. Stegall*, 653 F.2d 180, 186 (5th Cir. 1981). In addition, use of a pseudonym is warranted in this case to shield Doe's minor children from possible risk of violence stemming from their unpopular beliefs. *Id.* at 185-86; see also *Bell v. Little Axe Ind. Sch. Dist. No. 70*, 776 F.2d 1391, 1398 (10th Cir. 1985) (Identified plaintiffs in action challenging bible distribution received threatening phone calls, their children were called "devil-worshippers" by fellow students and were the victims of other harassment, and their "home was destroyed by a fire of suspicious origin."). The use of a pseudonym is appropriate in cases challenging actions of public schools that endorse religion. See, e.g., *Doe v. Madison School District No. 321*, 147 F.3d 832, 834, fn. 1. (9th Cir. 1998); *Santa Fe Independent School Dist. v. Doe*, 530 U.S. 290 (2000). A motion for leave to proceed under pseudonyms will be filed shortly.

brings this action on her own behalf and on behalf of Jordon Doe and Jamie Doe as their mother and next friend.

7. Defendant Doniphan R-I School District (hereinafter “School District”) is a public school district located in Ripley County, Missouri. Doniphan Elementary School is one of the School District’s schools.

8. Defendant Doniphan R-I School Board is comprised of seven elected members who represent the interests of the School District and are ultimately responsible for operation of the School District. Doniphan Elementary School is under the control of the School Board.

9. Defendant Kevin Sandlin is superintendent of the School District. He supervises the administration of schools within the School District, including Doniphan Elementary School.

10. Defendant Mark Thompson is the principal of Doniphan Elementary School.

11. Defendant Jason Rose is the assistant principal of Doniphan Elementary School.

12. Defendants Lawrence McCann and Janice Griffin are teachers at Doniphan Elementary School.

13. Defendants Thompson, Rose, McCann and Griffin are sued both individually and in their official capacities. Defendant Sandlin is sued only in his official capacity.

14. At all relevant times Defendants were acting under color of state law.

FACTUAL ALLEGATIONS

15. Jane Doe is a resident of Doniphan, Missouri, and the mother of two children who attend Doniphan Elementary School. Jordan Doe and Jamie Doe are Jane Doe's children. Both Jordan and Jamie attended Doniphan Elementary School during the 2005-2006 academic year, and both will remain in the elementary grades for the coming school year.

16. Doniphan Elementary School is part of and is operated by the Doniphan R-I School District.

17. On May 18, 2006, Doniphan Elementary School held an honors assembly.

18. The May 18 in-school assembly was organized to recognize good grades and attendance of the lower-grade students, so all lower grade students were required to attend the assembly with their classmates during school time.

19. After the students had entered the school gymnasium and sat down, Defendant Thompson, in his capacity as principal, began the May 18 assembly by welcoming students and parents. He then invited Defendant Griffin, in her capacity as teacher, to come forward and give an opening prayer.

20. Defendant Griffin led a pervasively sectarian prayer that began with a request that Jesus Christ bless the children.

21. On May 19, 2006, Doniphan Elementary School held a second honors assembly. The second assembly was to honor the achievements of students in the upper grades of the elementary school.

22. Student attendance at the May 19 assembly was mandatory.

23. Defendant Rose, in his capacity as assistant principal, welcomed everyone to the assembly and called upon Defendant McCann, in his capacity as a teacher, to deliver a prayer over the assembly.

24. Defendant McCann directed the students and visitors to bow their heads “as we pray to the lord.” He then led a pervasively sectarian prayer that made multiple references to “our father” and concluded by asserting “in Jesus’ name we pray, amen.”

25. On both May 18 and 19, most – if not all – of the students bowed their heads during the prayers. Jordan Doe, Jamie Doe, and other reasonable elementary students in their position felt coerced into bowing their heads during teacher-led prayer.

26. Even prior to May 18 and 19, Jordan Doe and Jamie Doe had been subjected to Christian proselytization by teachers at Doniphan Elementary.

27. Jane Doe was injured by these events because Defendants’ have infringed upon her constitutional right to direct the religious upbringing of her children.

28. Jordan Doe and Jamie Doe were injured by these events because they were coerced into religious participation by the school’s action in facilitating teacher-led Christian prayers during mandatory in-school assemblies.

29. The actions of the administrators and teachers at Doniphan Elementary School are inconsistent with the School District’s policies. The district’s policy on religion states that the district supports the constitutional separation of church and state and “urges that the responsibility for the use of [religious] symbols, and observances of religious occasions, be the province of the home and the community.” Policy 1100. In addition, the instructional policies of the district limit the teaching of any specific

religious denomination, saying “the espousal of any particular religious denomination or faith is strictly forbidden.” Policy 6242.

30. On or about May 24, 2006, counsel for the Does wrote to Defendant Sandlin informing him of the events of May 18 and 19 and requesting corrective action.

31. On or about May 30, 2006, Defendant Sandlin responded by e-mail. He acknowledged that the prayers of May 18 and 19 had occurred and that they violated the District policies. Defendant Sandlin noted that he disagreed with the policies. Defendant Sandlin indicated that he spoke to the administrators involved and told them teachers could not be called upon to lead school prayers in the future. He indicated that he told the administrators that at future in-school events, in-school prayer would have to be student-led.

32. On July 5, 2006, counsel for the Does wrote to Charlie Bass, president of the School Board. Counsel notified Bass of the incidents of May 18 and 19 and Defendant Sandlin’s response. Counsel demanded the District give written assurance it would not allow its employees to participate in or supervise the reciting of prayers or other sectarian activities during the school day in the school building and would take affirmative action to ensure such activity did not occur in the future. The Does also requested an apology and nominal damages. Counsel requested a response by July 12, 2006.

33. As of the filing of this complaint, no response to the July 5 letter was received.

COUNT I

AGAINST ALL DEFENDANTS

**THE ACTIONS OF THE INDIVIDUAL DEFENDANTS HAVE VIOLATED THE FIRST
AMENDMENT AND CREATED AN ESTABLISHMENT OF RELIGION**

34. Plaintiffs repeat, re-allege and incorporate by reference the allegations in the foregoing paragraphs of this Complaint as fully set forth herein.

35. Plaintiffs are entitled to relief under 42 U.S.C. § 1983 because Defendants, acting under color of law, subjected plaintiffs to a deprivation of their rights under the Establishment Clause of the First Amendment of the Constitution of the United States, as applied to the states by the Fourteenth Amendment.

36. Plaintiff Doe has a constitutional right to direct the religious upbringing of her children pursuant to *Pierce v. Society of Sisters*, 268 U.S. 510 (1925), and its progeny.

37. Plaintiffs Jordan Doe and Jamie Doe have a constitutional right to attend a public elementary school without being coerced to participate in sectarian activities.

38. Defendants' actions give the appearance of endorsing the Christian faith and inhibiting the religious beliefs of non-Christians.

39. Even if the in-school prayers at the elementary school were led by a student, as proposed by Defendant Sandlin, religious coercion because student attendance at the in-school assembly and other mandatory school events is not optional.

40. There was and is no secular or education purpose for the teacher-led or student-led prayer at in-school events in an elementary school.

41. The actions of Defendants Thompson, Rose, McCann, and Griffin had the principal and primary purpose of advancing a particular religious preference.

42. The actions of Defendants Thompson, Rose, McCann, and Griffin fostered an excessive governmental entanglement with religion.

43. Defendants Thompson, Rose, McCann, and Griffin's action were taken in the course of their employment with the School District and under the control of the School Board and Defendant Sandlin; accordingly, their action should be imputed to the remaining defendants.

44. Because Defendants' actions have violated the plaintiffs' federal constitutional rights and were taken under color of state law, each of these Defendants is liable for a remedy under 42 U.S.C. § 1983.

COUNT II

AGAINST DEFENDANTS SCHOOL DISTRICT AND SCHOOL BOARD

THE DISTRICT AND ITS SCHOOL BOARD HAVE FAILED TO ADEQUATELY TRAIN AND SUPERVISE DISTRICT PERSONNEL TO AVOID ESTABLISHING RELIGION WITHIN THE DISTRICT IN VIOLATION OF DISTRICT POLICY AND THE FIRST AMENDMENT

45. Plaintiffs repeat, re-allege and incorporate by reference the allegations in the foregoing paragraphs of this Complaint as fully set forth herein.

46. The School District and the Doniphan School Board are liable for failure to adequately train district and supervise personnel regarding the District's policies on religion in the public school to ensure compliance with the Establishment Clause of the First Amendment.

47. Even District personnel who are aware of the policies are under the mistaken impression that allowing a student to lead a Christian prayer during a mandatory in-school assembly would be an acceptable alternative to teacher-led prayer.

48. The District and School Board's failure to train and supervise exhibits a deliberate indifference to Plaintiffs' rights under the First and Fourteenth Amendments. Further the District and School Board's failure to respond to the Does' demand that they give written assurance that they would not allow their employees to participate in or supervise the reciting of prayers or other sectarian activities during the school day in the school building and would take affirmative action to ensure such activity did not occur in the future further demonstrates their deliberate indifference to Plaintiffs' rights.

49. Plaintiffs have been injured by Defendants' conduct. Doe's children have been coerced to participate in Christian activities during mandatory in-school events at the elementary school despite Doe's desire to raise her children without Christian beliefs. Further, plaintiffs have been harmed by Defendants endorsement, or apparent endorsement, of a religion.

COUNT III

AGAINST DEFENDANTS SANDLIN, THOMPSON, AND ROSE

SCHOOL ADMINISTRATORS HAVE FAILED TO ADEQUATELY TRAIN AND SUPERVISE DISTRICT PERSONNEL TO AVOID VIOLATIONS OF THE ESTABLISHMENT CLAUSE OF THE FIRST AMENDMENT

50. Plaintiffs repeat, reallege and incorporate by reference the allegations in the foregoing paragraphs of this Complaint as fully set forth herein.

51. Defendant Sandlin, in his capacity as Superintendent; Defendant Thompson, in his capacity as principal of the elementary school; and Defendant Rose, in his capacity as assistant principal of the elementary school, are liable for failure to adequately supervise other Defendants in their employment at Doniphan Elementary

School and to ensure that employees were aware of and complied with District policies as well as the First Amendment.

52. Plaintiffs have been injured by these Defendants' conduct. Their lack of supervision led to situations in which the Doe children were coerced to participate in Christian religious activities during the school day and gave the appearance of government endorsement of religion.

COUNT IV

AGAINST DEFENDANTS THOMPSON, ROSE, MCCANN, AND GRIFFIN AS INDIVIDUALS

DEFENDANTS THOMPSON, ROSE, MCCANN AND GRIFFIN ARE INDIVIDUALLY LIABLE FOR VIOLATIONS OF WELL-ESTABLISHED CONSTITUTIONAL RIGHTS UNDER THE FIRST AMENDMENT

53. Plaintiffs repeat, reallege and incorporate by reference the allegations in the foregoing paragraphs of this Complaint as fully set forth herein.

54. Defendants Thompson, Rose, McCann and Griffin are individually liable because their conduct violates clearly established constitutional rights of which a reasonable person would have known.

55. It is clearly established as a matter of constitutional law that school officials may not facilitate, and teachers may not lead, sectarian prayer at an elementary school during the school day when student attendance is mandatory.

56. A reasonable person would know the clearly established rule referred to in ¶ 55.

57. In addition or in the alternative, a reasonable principal, assistance principal, or teacher would know the clearly established rule referred to in ¶ 55.

WHEREFORE Plaintiffs respectfully request that this Court enter its Judgment against Defendants granting the following relief:

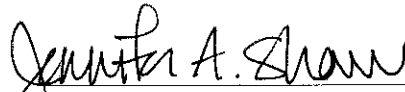
- A. Declaratory judgment finding that Defendants' actions violate the Establishment Clause of the First Amendment of the Constitution as applied to the state through the Fourteenth Amendment;
- B. Preliminary and permanent injunctions preventing and restraining Defendants and their agents from further endorsement of religion within the School District;
- C. Nominal damages;
- D. An award of costs and attorney fees pursuant to 42 U.S.C. § 1988; and
- E. Such other and further relief as is just and proper under the circumstances.

Respectfully submitted,

American Civil Liberties Union of Eastern Missouri

A handwritten signature in black ink, appearing to read 'Anthony E. Rothert', with a long horizontal flourish extending to the right.

ANTHONY E. ROTHERT, EDMo #518779
Legal Director
American Civil Liberties Union of Eastern Missouri
4557 Laclede Avenue
St. Louis, Missouri 63108
(314) 361-3635
FAX: (314) 361-3135
E-Mail: tony@aclu-em.org



JENNIFER A. SHAW (*pro hac vice* pending)

201 Hillsboro Avenue

Edwardsville, IL 62025

(618) 665-0555

FAX: (618) 659-1700

COOPERATING ATTORNEY FOR AMERICAN
CIVIL LIBERTIES UNION OF EASTERN
MISSOURI

COUNSEL FOR PLAINTIFFS

Verification of Jane Doe

I have studied the allegations of the Complaint and verify that they are true based upon my personal knowledge.


JANE DOE*

* Counsel has retained a copy of a verification signed by Jane Doe without the use of a pseudonym that can be made available to the Court for inspection.