

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

FREEDOM FROM RELIGION  
FOUNDATION, INC.; PETER VIVIANO,  
ERNIE HIRSHMAN, SABINA HIRSHMAN,  
PAUL WEINBAUM, MARTIN J. BOYD, M.D.,  
and JESSE V. CHAVEZ,,

Plaintiffs,

v.

Case No.

GOVERNOR BILL RICHARDSON, SECRETARY  
JOE R. WILLIAMS, HOMER GONZALES,  
BILL SNODGRAS, and CORRECTIONS  
CORPORATION OF AMERICA, INC.,

Defendants.

COMPLAINT

The plaintiffs, for their complaint against the defendants, allege as follows:

1. This is an action by the plaintiffs brought against the defendants alleging violations of the Establishment Clause of the First Amendment to the United States Constitution and 42 U.S.C. § 1983.
2. The Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331.
3. Venue is appropriate in the District Court for the District of New Mexico, pursuant to 28 U.S.C. § 1391, because one or more of the defendants resides within this judicial district and because the actions giving rise to the claims occurred within the district.

4. The plaintiff, Freedom From Religion Foundation, Inc., is a Wisconsin non-stock corporation with its principal office in Madison, Wisconsin.
5. The plaintiff, Freedom From Religion Foundation, has more than 5,500 members, who are opposed to government endorsement of religion in violation of the Establishment Clause of the First Amendment to the United States Constitution.
6. The plaintiff, Freedom From Religion Foundation, has membership that includes New Mexico residents who pay taxes to the State of New Mexico.
7. The plaintiff, Freedom From Religion Foundation, has the organizational purpose to protect the fundamental constitutional principle prohibiting government endorsement of religion by representing and advocating on behalf of its members.
8. The plaintiff, Freedom From Religion Foundation, in its representational capacity, and including its resident New Mexico taxpayers, are opposed to the use of state taxpayer appropriations to advance and promote religion.
9. The plaintiff, Peter Viviano, is an adult individual residing in Rio Rancho, New Mexico, and he is a New Mexico state taxpayer who is opposed to the use of state taxpayer appropriations to advance, endorse and/or promote religion.
10. The plaintiffs, Ernie and Sabina Hirshman, are adult individuals residing in Deming, Arizona, and they are New Mexico state taxpayers who are opposed to use of state taxpayer appropriations to advance, endorse and/or promote religion.
11. The plaintiff, Paul Weinbaum, is an adult individual residing in Las Cruces, New Mexico, and he is a New Mexico state taxpayer who is opposed to use of state taxpayer appropriations to advance, endorse and/or promote religion.

12. The plaintiff, Martin J. Boyd, M.D., is an adult individual residing in Las Cruces, New Mexico, and he is a New Mexico state taxpayer who is opposed to use of state taxpayer appropriations to advance, endorse and/or promote religion.
13. The plaintiff, Jesse V. Chavez, is an adult individual residing in Las Cruces, New Mexico, and he is a New Mexico state taxpayer who is opposed to use of state taxpayer appropriations to advance, endorse and/or promote religion.
14. The plaintiffs, Peter Viviano, Ernie and Sabina Hirshman, Paul Weinbaum, Martin J. Boyd, M.D., Jesse V. Chavez, are members of the plaintiff organization, Freedom From Religion Foundation.
15. The defendant, Bill Richardson, is the Governor of the State of New Mexico.
16. The defendant, Governor Richardson, is sued in his official capacity as the Governor of the State of New Mexico.
17. The defendant, Joe R. Williams, is the Secretary of the New Mexico Corrections Department.
18. The defendant, Joe R. Williams, is sued in his official capacity as the Secretary of the New Mexico Corrections Department.
19. The defendant, Homer Gonzales, is the Coordinator of Faith-Based Programs for the New Mexico Corrections Department
20. The defendant, Mr. Gonzales, is sued in his official capacity as the Coordinator of Faith-Based Programs for the New Mexico Corrections Department.
21. The defendant, Bill Snodgrass, is the Warden at the New Mexico Women's Correctional facility in Grants, New Mexico.

22. The defendant, Mr. Snodgrass, is sued in his official capacity as the Warden at the New Mexico Women's Correctional facility.

23. The defendant, Corrections Corporation of America, Inc., has contracted with the State of New Mexico to provide prison services for the State of New Mexico, with an address at 1700 East Old Highway 66, Grants, New Mexico.

24. The defendant, Corrections Corporation of America, Inc., exercises powers traditionally exclusively reserved to the state; pursuant to the contract between Corrections Corporation of America, Inc. and the State of New Mexico, the State has delegated a state function to Corrections Corporation of America.

25. The New Mexico Corrections Department is a duly organized New Mexico state public entity that is funded from New Mexico state taxpayer appropriations.

26. The defendants, Governor Bill Richardson, Secretary Joe R. Williams, Homer Gonzales, and Bill Snodgrass, who are sued in their official capacities, are state actors whose actions have been/are taken under color of state law and the defendants are responsible for disbursing and spending New Mexico state taxpayer appropriations as alleged herein.

27. The New Mexico Corrections Department provides faith-based programming to inmates which is designed to encourage the inmates involved to establish or strengthen a relationship with God.

28. The defendant, Homer Gonzales, is the Coordinator of the Faith-Based Programming for the New Mexico Corrections Department and he is responsible for overseeing the Department's faith-based programming.

29. The activities of the defendant, Homer Gonzales, are funded by appropriations of tax revenues received by the State of New Mexico from state taxpayers.

30. The goal of the Corrections Department faith-based programming is to teach and model a Christian lifestyle that will help the inmates accomplish goals identified by the New Mexico Corrections Department, including (1) to learn to live in a faith community; (2) to help inmates overcome hurts, addictive habits and hang-ups; (3) to strengthen family relationships; and (4) to form new relationships within the Christian community.

31. The goal of faith-based programming provided by the New Mexico Corrections Department further is to encourage inmates to become involved in faith-based programming in their local community upon release from prison.

32. The underlying premise of faith-based programming provided by the New Mexico Corrections Department is that a relationship with God, and involvement in a Christian faith community, is necessary to prevent criminal recidivism.

33. The most intensive faith-based programming provided by the New Mexico Corrections Department is presently conducted at the New Mexico Women's Correctional Facility in Grants, New Mexico, which prison facility is managed by the defendant, Corrections Corporation of America.

34. The defendant, Corrections Corporation of America, runs the women's prison in Grants, New Mexico, with appropriations authorized to be made by Governor Richardson, Secretary Williams, Mr. Gonzales and Mr. Snodgrass.

35. Corrections Corporation of America provides an exclusively faith-based segregation pod at the New Mexico Women's Correctional Facility in Grants, New Mexico, which program has been/is enthusiastically supported by the defendants.

36. The defendant, Corrections Corporation of America, has provided intense faith-based programming at the New Mexico Women's Correctional Facility previously through the Life Principles Community/Crossings Program and has recently begun providing religious programming in partnership with a fundamentalist Christian ministry, i.e., the Institute in Basic Life Principles.

37. The faith-based programming provided by Corrections Corporation of America at the New Mexico Women's Correctional Facility, in partnership with the Institute in Basic Life Principles, is intended to facilitate a "franchise-like" approach to providing faith-based programming in all prisons operated by Corrections Corporation of America; the defendant is the nation's largest provider of corrections management services to government and it is the nation's largest owner and operator of correctional and detention facilities, after the federal government and four states, operating at least 63 facilities with a total design capacity of approximately 67,000 beds in 19 states and the District of Columbia.

38. The content of the faith-based programming provided by Corrections Corporation of America at the New Mexico Women's Correctional Facility is intended to convert people to a fundamentalist interpretation of Christianity.

39. The written materials used in the faith-based programming by Corrections Corporation of America at the New Mexico Women's Correctional facility include statements such as "Have you received Jesus Christ as your Personal Savior?," "The first function of faith is

to believe in Christ for salvation," "The Holy Spirit takes up residence in your Spirit and confirms that you are a Christian...Disobeying the promptings of the Holy Spirit will cause Him to be grieved and will quench His power in your life."

40. The faith-based programming provided by Corrections Corporation of America, based on the partnership with the Institute in Basic Life Principles, makes no claim of secularism or respect for other world religions or world views; the Institute in Basic Life Principles was officially established "for the purpose of introducing people to the Lord Jesus Christ," which it does by providing "training on how to find success by following God's principles found in Scripture."

41. The interpretation of Scripture underlying the faith-based programming of the Institute in Basic Life Principles, provided at the New Mexico Women's Correctional facility, represents a very literal, overtly patriarchal and highly authoritarian understanding of the proper relationship with Jesus Christ.

42. The faith-based programming material provided by the Institute in Basic Life Principles considers that all social institutions, including church and government, exist solely because of God's will.

43. The present partnership between Corrections Corporation of America and the Institute in Basic Life Principles is not the first partnership between Corrections Corporation of America and Christian Evangelical groups.

44. Corrections Corporation of America, in fact, has taken a leadership role and extended a commitment in its mission to bring faith-based programs to prisons.

45. Corrections Corporation of America has previously partnered with groups such as Good News Jail and Prison Ministry, School of Christ International, Child Evangelism Fellowship, Champions for Life, Kairos Horizon, and Theotherapy.

46. Corrections Corporation of America is avowedly convinced of the value of faith-based programs such as that offered by the Institute in Basic Life Principles, to the extent that Corrections Corporation of America plans to institute such faith-based segregation pods in every one of the prisons that it operates; Corrections Corporation of America considers faith-based programs to be the preferred tool to change inmate behavior and to attain a higher quality of life.

47. Corrections Corporation of America is committed to faith-based programming because of its belief that such programming is necessary to prevent criminal recidivism, and Corrections Corporation of America, therefore, has partnered exclusively with Christian Evangelical and Fundamentalist groups to provide faith-based programming; cultures of respect, responsibility and accountability, however, can be achieved without promoting religious indoctrination, contrary to Corrections Corporation belief.

48. The faith-based segregation pod at the New Mexico Women's Correctional Facility is known as the "God Pod" by some of the prisoners; the pod includes Scripture-based books and movies, and an intimate living room area offers prisoners the comfort of couches, a microwave and a peaceful ambiance that is not available to other inmates.

49. The environment of the faith-based pod at the New Mexico Women's Correctional facility provides an environment that is more nicely furnished and less noisy and hectic than other prison pods, including because the number of women in residence is less than in other pods.

50. The faith-based segregation unit at the New Mexico Women's Correctional Facility is explicitly and rigorously religious with a program involving spiritual counseling and religious meetings, prayer walks, meditation, memorization of the New Testament, and a mandate that the inmates stay involved in a faith community after their release from prison.

51. Inmates in the faith-based segregation unit at the New Mexico Women's Correctional Facility are encouraged to dedicate themselves exclusively to their relationships with God and family.

52. The defendants believe that faith-based programming for prison inmates is a superior approach to reducing criminal recidivism, which effect the defendants believe is caused by the transformative belief in a higher power, i.e., because the prisoners allegedly realize that there is a God, and that the prisoners are helpless, and that God is in control if they allow Him to be.

53. The defendants intend to increase the faith-based programming at the New Mexico Women's Correctional Facility to the extent that at least 245 women will be involved in faith-based programming at any one time.

54. The faith-based programming at the New Mexico Women's Correctional Facility is premised on God always coming first, and family second, and all else being secondary.

55. The goal of state-wide faith-based programming, provided by the New Mexico Corrections Department, is to instill a belief by prisoners that there is a Creator and Higher Power able to help them turn their lives around, and a belief that prisoners do not have to be locked into the lifestyle that led them to prison.

56. The faith-based programming procured by the New Mexico Corrections Department, and authorized by these defendants, is funded by New Mexico taxpayer appropriations.

57. Planning, development and implementation of faith-based programming by the New Mexico Corrections Department are accomplished by these defendants.

58. The activities of the defendants are subsidized through state taxpayer supported efforts, undertaken at the direction of the defendants, including the actions of Mr. Gonzales, whose only job is to promote and coordinate faith-based programming.

59. Faith-based programming provided by the New Mexico Corrections Department touts the alleged importance and power of Christian faith as being necessary to lead a crime-free life.

60. The actions of the defendant are integral to the faith-based programming of the New Mexico Corrections Department, including the mission of religious indoctrination.

61. The defendants engage in and authorize activities that promote religious spirituality and faith.

62. The faith-based programming provided by the New Mexico Corrections Department, under the authorization and supervision of the defendants, considers that inmate values, resulting in lifestyle choices, must be changed through the integration of faith, religion and spirituality into their lives.

63. The defendants, through their actions, seek to promote the integration of Christian religious spirituality and faith, as inherent components, into the Corrections Department's rehabilitative delivery model of services.

64. The actions of the defendants violate the Establishment Clause of the First Amendment to the United States Constitution and § 1983 of Title 42 of the United States Code.

65. The defendants' actions have violated and do violate the fundamental principle prohibiting government endorsement of religion by using state taxpayer funds for the provision of prison faith-based programming and activities that promote the integration of religion into the lives of inmates, such that the religious objective is indivisible from any possible secular objective.

66. The activities of the defendants impermissibly advance, endorse and promote the establishment of religion in violation of the Establishment Clause of the First Amendment to the United States Constitution.

67. The Establishment Clause does not have an exception for religious indoctrination of incarcerated persons as an ostensible means of government-sanctioned social control.

68. The use of New Mexico taxpayer funds, to promote faith-based programming by the New Mexico Corrections Department, violates the Establishment Clause to the First Amendment to the United States Constitution because taxpayer funds are used to support activities whose mission is to integrate religious indoctrination as an indivisible component of the programming provided to prison inmates.

69. Religious indoctrination is an integral component of the faith-based programs provided by the New Mexico Corrections Department, which indoctrination is supported by taxpayer appropriations from the State of New Mexico, through the actions of the defendants.

70. New Mexico state taxpayer appropriations are disbursed to fund the organization and procurement of faith-based programming by the New Mexico Corrections Department,

including the faith-based programming at the New Mexico Women's Correctional Facility, as a result of decisions made by state actors, including the defendants herein.

71. Patently religious principles dominate the approach to faith-based programming advocated and procured by the defendants, which faith dominated approach includes explicitly religious content designed to be integrated into the programming offered by the New Mexico Corrections Department.

72. The involvement and actions of the defendants constitute governmental approval of the religious content of the faith-based programming integrated into the New Mexico prison system.

73. The actions of all the defendants have occurred under color of state law.

74. The defendants' actions give the public appearance, to reasonable observers, of state endorsement of religion.

75. The defendants' actions convey a message that religion is favored, preferred and promoted, in contrast to non-belief, and the faith-based programming of the New Mexico Corrections Department is clothed in traditional indicia of government endorsement.

76. The actions of the defendants violate 42 U.S.C. § 1983 because the defendants are violating the United States Constitution while acting under color of state law.

77. The funds appropriated by the defendants to apply to faith-based programming by the New Mexico Corrections Department are derived from taxes paid by residents of the State of New Mexico, including resident New Mexico taxpayers who are members of the plaintiff organization, the Freedom From Religion Foundation.

78. The actions of the defendants in violating the Establishment Clause of the First Amendment to the United States Constitution, and § 1983 of Title 42 of the United States Code, are injurious to the interests of the plaintiffs because the defendants' actions compel the plaintiffs to support the establishment, endorsement and advancement of religion through state taxpayer funding of programmatic religious indoctrination, to which the plaintiffs object.

WHEREFORE, the plaintiffs demand judgment as follows:

- (a) For a declaration that the actions of the defendants violate the Establishment Clause of the First Amendment to the United States Constitution and 42 U.S.C. § 1983;
  - (b) For an order enjoining the defendants from continuing to promote, operate, manage, fund and direct activities promoting faith-based programming by the New Mexico Corrections Department;
  - (c) For an order enjoining the defendants from continuing to provide faith-based programming by the New Mexico Corrections Department, including at the New Mexico Women's Correctional Facility, which programming impermissibly endorses and promotes religion;
  - (d) For an order enjoining the defendants from using state funds to promote, advance and/or endorse the establishment of religion, including funding for the faith-based segregation unit at the New Mexico Women's Correctional Facility;
  - (e) For judgment awarding such further relief as the Court deems just and equitable;
- and

- (f) For judgment awarding the plaintiffs their reasonable costs, disbursements and attorneys fees, as allowed by law, including 42 U.S.C. § 1988.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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