

# Court: FFRF Can Sue Over S.C. School Religious Education Academic Credit

A U.S. District Court in South Carolina has ruled that the Foundation lawsuit against the Spartanburg County School District may proceed to the discovery process and to trial.

The suit, filed in June 2009, challenges the awarding of academic credits for religious released-time instruction. The Foundation's co-plaintiffs are Robert Moss and Ellen Tillett, parents of two current Spartanburg High School students.

The Dec. 17 ruling, issued in Greenville by Senior U.S. District Judge Henry Herlong Jr., grants the Foundation and its plaintiffs standing to sue and pursue the case as a violation of the Establishment Clause of the First Amendment.

In a 1952 case, *Zorach v. Clauson*, the U.S. Supreme Court allowed public school children to be released for one hour a week for religious instruction. In 1981, the Tenth Circuit ruled in *Lanner v. Wimmer* that schools could additionally give credit for having taken an elective for released-time religious education.

"The South Carolina case goes beyond what was allowed by either of those cases," said George Daly, Foundation attorney. "It allows the religious school to give students an *academic* grade for religious studies or practice. This means that a student can get an A+ for whatever reason the religious school wants to give an A+ for. It could be for 'exceptional piety,' for example. That grade is then accepted at face

value by the public school and the student can gain an academic advantage for religious reasons."

Spartanburg High School had offered a released-time option in the past, but interest in it dwindled until the accreditation change in 2007. The course is taught by South Carolina Bible Education In School Time (SCBEST). One stated purpose of the evangelical group is to help students "make a rock-solid, lifelong commitment to Christianity." SCBEST "regards the bible as the word of God and will teach it as such."

Spartanburg High School apparently supplied the released-time ministry with the names and addresses of all 10th, 11th and 12th grade students, who then received a letter inviting them to participate in the Christian education.

Giving academic credit for outside religious classes is constitutionally suspect, said Daly, who is a prominent North Carolina civil rights lawyer.

"We are strongly of the opinion that this practice offends the Constitution. A school cannot delegate to a religious organization the power to give a public school grade, any more that it can delegate to a church the power to say who should be allowed to run for sheriff."

The judge dismissed the plaintiffs' 14th Amendment Equal Protection Clause claim.

The School District is represented by the Becket Fund For Religious Liberty.

Foundation Co-President Dan Barker was incredulous when the suit was originally filed that a public school would let a group like SCBEST set academic standards.

"This means a student can more easily qualify for a scholarship based on GPA if she commits to follow Christ for life!"

## Attorney, Parent Make Legal Case in Letters

*Below is a letter to the editor by Foundation attorney George Daly published by the Spartanburg (S.C.) Herald-Journal, in response to a letter criticizing the Foundation's lawsuit challenging academic credit for released-time religious instruction:*

Edith Paxton wrote that the lawsuit that is seeking to stop Spartanburg High School from giving grades for off-campus religious instruction is an attack on the right of Christians to practice their religion. I wonder how she would feel if Muslim children sought high school credit for attending Muslim religious classes? What about Wiccans? They have just as much right to practice their religion as anyone else. But many people would raise an outcry about giving high school credit for practicing a religion that they didn't share. It's not hard to imagine the situation becoming ugly.

Religion for many of us expresses our deepest hopes and beliefs. We will fight to the death to protect them. And that's the very reason our Constitution calls for separation of church and state — to keep the government out of fights about religion.

Religious passions and governmental power are a dangerous mix. It was religious persecution, after all, that drove many original settlers to America from England: beheadings, burnings, mob violence, done or approved by the English government because of folks being Catholic, or sometimes being Protestant, depending on the religion of the king or queen. The writers of the Constitution had seen the result of the fusion of church and state. They didn't want to risk repeating that history over here. So they provided that everyone was free to have a religion and to practice it, but the government had to keep out of religious disputes. They escalate too easily.

Let's keep the government out of religion and religion out of the government.

George Daly, North Carolina

*The letter (following) to the Herald by Robert Moss, one of the Foundation's two local plaintiffs in its federal lawsuit, was published Jan. 6. Moss is a parent with a student at the high school involved in the lawsuit.*

It is unfortunate that, in our attempt to protect everyone's religious freedom, Dec. 29 letter writer Edith T. Paxton sees an attack on her Christian beliefs. She believes that if the school board won't allow students to get academic credit for prac-

ticing their religion during school time, this discriminates against Christians.

Ms. Paxton has forgotten that the purpose of our Bill of Rights is to make sure our "freedoms" and "rights" are enjoyed by all. Ms. Paxton is free to practice her religious beliefs anytime, anywhere. Even during school time with "religious release time." However, the First Amendment says the government is not free to endorse a religion. Not even the religion of the majority.

Endorsing one religion means devaluing the others, especially in the eyes of our children. And giving state credit for a course is endorsing it. How would Ms. Paxton react if our public schools gave academic credit for a course promoting another religion, perhaps a satanic one? Our lawsuit is brought because we want our children growing up embracing religious diversity, not having our schools teaching that one religion is the "right one" and others "wrong."

Only by keeping our government and our public schools out of religion do we all have "freedom of religion." Until we all accept and indeed embrace religious diversity, we are advancing intolerance and prejudice. And until our educators accept that they are responsible for educating children of all faiths, and are not responsible for "bringing our children to Jesus," they are offending our religious freedoms and the Constitution of our great democracy.

I challenge individual school board members and superintendents in each of Spartanburg's school districts to publicly state that teaching religious intolerance is intolerable, and that the policy on giving credit for courses promoting any religion must be reversed.

Robert Moss, South Carolina

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## Solstice in Loudoun



## Banner Day

The Foundation's members in the Leesburg, Va., area helped FFRF restore the winter solstice to the holiday season in December with this "Let Reason Prevail" banner at the Loudoun County Courthouse. Several other freethinking groups contributed to the display after the Board of Supervisors opened up the grounds as a public forum with a limited number of permits. The county for years had sanctioned religious displays but not secular ones.