FREEDOM FROM RELIGION *foundation*

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March 25, 2015

SENT VIA U.S. MAIL & EMAIL to cmoffice@louisville.edu

Office of the President
Grawemeyer Hall
University of Louisville
Louisville, KY 40292

Re: Louisville Basketball Team Chaplain

Dear Dr. Ramsey:

Our national organization, which works to keep state and church separate, and our Kentucky membership strenuously opposes University of Louisville's basketball chaplaincy. The Freedom From Religion Foundation (FFRF) has over 21,000 members including members in Kentucky. We request an investigation into this issue and records pursuant to Kentucky open records laws.

It is our understanding that men's basketball coach Rick Pitino has established his good friend Father Ed Bradley as the team's "unofficial chaplain" for the purpose of indoctrinating players to his personal religious beliefs. Reports indicate that Bradley travels with the team, sits with coaching staff on the team's bench, and leads the team in prayer before games, at halftime, after games, and while the team travels.[1]

We are concerned that Rick Pitino is using his position as head coach of the University's basketball program in order to promote his personal religious beliefs to his players. This religious promotion at a public university violates the constitutional prohibition on government endorsement of religion. Father Bradley appears to be the means through which this proselytization takes place.

Athletic chaplains at public universities are unconstitutional

Public school athletic teams cannot appoint or employ a chaplain, seek out a spiritual leader for the team, or agree to have a volunteer team chaplain because public schools may not advance or promote religion. *See generally*, *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000); *Lee v. Weisman*, 505 U.S. 577 (1992); *Wallace v. Jaffree*, 472 U.S. 38 (1985); *Epperson v. Arkansas,* 393 U.S. 97 (1967); *Sch. Dist. of Abington Twp. v. Schempp,* 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421 (1962).

Government chaplains may only exist as an accommodation of a public employee's religious beliefs when the government makes it difficult or impossible to seek out private ministries. *See Carter v.*

[1] Cole Claybourn, *Louisville team chaplain Father Ed Bradley talks about Kevin Ware's injury*, MESSENGER-INQUIRER (Apr. 3, 2013) *available at* http://goo.gl/eXo1Sl.

Broadlawns Medical Center, 857 F.2d 448 (8th Cir. 1988), *cert. denied*, 489 U.S. 1096 (1989). For instance, it may be difficult for military service members to find a place of worship while on mission in a foreign country or for an inmate in a prison to find a way to worship. *Katcoff v. Marsh*, 755 F.2d 223 (2d. Cir. 1985). Chaplains are meant to lighten these government-imposed burdens on religious exercise. University of Louisville basketball players have no government-imposed burden on their religion, so there is no need—or legitimate legal reason—for the University to provide a chaplain for them. Bradley's employment, even if volunteer, is an unconstitutional endorsement of religion.

Even if Bradley were not imposing prayers on the entire basketball team during official team meetings, claiming that the players can voluntarily seek out Bradley cannot cure this violation. First, players can seek out religious guidance at any of the other campus ministries or in the local community. The basketball team does not need to host a volunteer chaplain—indeed, it cannot legally do so. Second, voluntariness cannot excuse a constitutional violation. At the college level, voluntary prayers are unconstitutional if organized by university staff and if students would feel pressure to join, as any team member would. *Mellen v. Bunting*, 327 F.3d 355, 372 (4th Cir. 2003) (holding pre-meal prayers at state-operated military college unconstitutional, though voluntary).

Abolishing the chaplaincy will not alter students' rights to pray

While student athletes may choose to gather in prayer, a public university has no business encouraging or endorsing religious rituals, much less organizing them. Whether to pray, and whether to believe in a deity who answers prayer, are intensely personal decisions protected under our First Amendment as paramount matters of conscience. Sermons and sectarian practices demonstrate the University's apparent endorsement not only of religion over nonreligion but also of Christianity over other faiths. The University's authority over student athletes is similar to that of VMI, a public military college that organized unconstitutional mealtime prayers. *See Mellen,* 327 F.3d 355. That court explained:

> Put simply, VMI's supper prayer exacts an unconstitutional toll on the consciences of religious objectors. While the First Amendment does not in any way prohibit VMI's cadets from praying before, during, or after supper, the Establishment Clause prohibits VMI from sponsoring such a religious activity. *Id.* at 372.

"School sponsorship of a religious message is impermissible because it sends the ancillary message to members of the audience who are nonadherents 'that they are outsiders, not full members of the political community and accompanying message to adherents that they are insiders, favored members of the political community.'" *Santa Fe*, 530 U.S. at 309-10 (*quoting Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O'Connor, J., concurring)). A state school and its representatives, while acting in their official capacities, must remain neutral on religious matters.

Abolishing the team chaplaincy will not alter student athletes' ability to pray, but it will prevent some student athletes from feeling coerced into participating in prayers to a deity they may not believe in. More than 62 million Americans (19%) are not religious.[2] And, most importantly for colleges and universities around the country, younger Americans are far less religious than any

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[2] Nones on the Rise: One-in-Five Adults Have No Religious Affiliation," Pew Research Center, The Pew Forum on Religion & Public Life (October 9, 2012) *available at* http://www.pewforum.org/Unaffiliated/nones-on-the-rise.aspx. Percentages applied to U.S. Census population measured at 318,000,000.

other demographic: **1-in-3 Americans aged 18-29 are not religious.**[3] It is very likely Bradley is imposing his religion on students who are not religious and just want to play basketball.

Student athletes' scholarships, playing time, future careers, and their entire education can be predicated on their basketball team membership. They should not have to jeopardize their personal religious beliefs or feel coerced to participate in religious rituals simply to play basketball.

This chaplaincy is unnecessary and legally problematic. The University of Louisville should act quickly to end the chaplaincy and educate its athletic staff on appropriate constitutional boundaries. We look forward to your written response.

Sincerely,

Andrew L. Seidel
Staff Attorney

[3] *Id.*