

FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 · MADISON, WI 53701 · (608) 256-8900 · WWW.FFRF.ORG

January 17, 2018

SENT VIA EMAIL AND U.S. MAIL:
donaldmims@mc-ala.org

Donald L. Mims
Montgomery County Administrator
P.O. Box 1667
Montgomery, AL 36102

Re: County donation to religious private school

Dear Mr. Mims and County Commission:

I am writing on behalf of the Freedom From Religion Foundation regarding Montgomery County's contemplated donation to a private religious school. FFRF is a national nonprofit organization with 30,000 members across the country, including members in Alabama. FFRF's purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

A concerned local taxpayer contacted us to report that the County has received a request from Valiant Cross Academy for a donation of more than \$40,000. Your memorandum on the Commission's January 4, 2018 meeting lists this grant as a "Future Budget Change[] from Donation Revenue."¹ The memorandum does not contain any other information about this contemplated donation.

According to the group's website, "Valiant Cross Academy is an all-male private school school [sic] located in the heart of downtown Montgomery, Alabama . . . based on Christian principles with an intentional culture of structure and discipline."² Valiant Cross's mission statement begins, "The world does not need supermen. It needs supernatural men; men who will learn from their youth, to let go of self, to let the power of the Holy Spirit raise them to new heights."³

¹ Available at mc-ala.org/Commission%20Meeting%20Agendas/1-8-18%20Briefing%20Memo.pdf.

² valiantcross.org/about.

³ valiantcross.org/mission.

County donations to Valiant Cross Academy would violate both the Alabama State Constitution and the U.S. Constitution. We are writing to request assurances that the Commission will not award any funds to Valiant Cross Academy, or otherwise fund private religious schools, in the future.

First, the Alabama Constitution clearly prohibits funding religious education: “no preference shall be given by law to any religious sect, society, denomination, or mode of worship; that no one shall be compelled by law to . . . pay any tithes, taxes, or other rate for building or repairing any place of worship, or for maintaining any minister or ministry . . .” Ala. Const. art. I, § 3. Supporting a ministry, and showing preference for Christianity above other religions, is exactly what Montgomery County would do by donating tens of thousands of taxpayer dollars to Valiant Cross Academy. Alabama’s Constitution erects a high wall of separation between state and church, and giving money directly to a religious school violates both the letter and the spirit of this provision.

Second, the Establishment Clause strictly prohibits the government from advancing religion. This means that the government may not “aid any or all religious faiths or sects in the dissemination of their doctrines.” *McCullum v. Bd. of Educ.*, 333 U.S. 203 (1948). Requiring taxpayers to support a religious school violates this principle by aiding the school in disseminating its religious doctrines.

The Supreme Court has struck down discretionary grants to parochial schools when there is a possibility that the funds will be used to advance religion. *See Comm. for Pub. Educ. v. Nyquist*, 413 U.S. 756, 777 (1973) (striking down repair grants meant to renovate parochial schools because the buildings were used for sectarian purposes); *Lemon v. Kurtzman*, 403 U.S. 602, 625 (1971) (holding that government aid to nonpublic education impermissibly entangled the government with religion, even when limited to secular subjects).

An earlier Alabama Supreme Court case addressed a scholarship program that was offered to students to attend religious or secular schools so long as the funds were not used “for sectarian purposes.” *Alabama Educ. Ass’n v. James*, 373 So.2d 1076, 1078 (1979). The program at issue in that case also “prohibited the use of money raised for the support of public schools to support schools of a predominantly sectarian or denominational character; required the periodic auditing of approved institutions; and prescribed other regulatory functions. . . . The Act provides very specific safeguards to insure that no state money is used for sectarian purposes.” *Id.* at 1078–80. These safeguards were essential to the Court’s decision that the program did not

violate the U.S. and Alabama constitutions.

More recently, FFRF has successfully challenged direct cash grants to private religious schools in federal court, even when those grants were made with an undisputed secular purpose. *See FFRF v. Bugher*, 249 F.3d 606, 614 (2001). In *Bugher*, the State of Wisconsin offered grants to both religious and secular private schools in order “to reduce the net cost of their existing [telecommunications] data line or video link.” *Id.* at 609. The Court held that *Nyquist* (cited above) “directly controls” and requires the invalidation of direct payment “to the coffers of religious schools.” *Id.* at 613–14.

FFRF requests written assurances that County funds will not be donated to Valiant Cross Academy or other private religious schools in the future. Please respond in writing with the steps taken to resolve this matter so that we may notify our complainant.

Sincerely,



Ryan D. Jayne
Staff Attorney

cc: Elton N. Dean, Sr., *via* eltondean@mc-ala.org
Ronda M. Walker, *via* rondawalker@mc-ala.org
Daniel Harris, Jr., *via* danharris@mc-ala.org
Isaiah Sankey, *via* isaiahsankey@mc-ala.org
Doug Singleton, *via* dougsingleton@mc-ala.org