

FREEDOM FROM RELIGION *foundation*

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

December 18, 2019

SENT VIA U.S. MAIL AND EMAIL:

president@usf.edu

President Steven C. Currall
University of South Florida
4202 E. Fowler Ave., CGS 401
Tampa, FL 33620

Re: Constitutional Concerns Regarding Coach Jeff Scott

Dear Dr. Currall:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to alert you to potential constitutional violations involving the new head football coach, Jeff Scott. FFRF is a national nonprofit organization with more than 30,000 members across the country, including more than 1,500 Florida members, and a local chapter, the Central Florida Freethought Community. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

It is our understanding that the University of South Florida recently hired Jeff Scott to be the head football coach. According to numerous reports, Coach Scott repeatedly abused his position as an assistant coach at Clemson University to push evangelical Christianity on players. These reports raise serious legal concerns for the University of South Florida. As a public university employee, Coach Scott violates the Constitution when he abuses his university position to promote his personal religion to students.

Coach Scott is coming from a program that did not value the rights of conscience of student athletes and that imposed unconstitutional religious practices on players. At the behest of coaches, the Clemson team took annual "Church Day" trips to evangelical churches. Based on public reports (and records that we received from Clemson), the program has had team religious devotionals, chapel services, scheduled baptisms of players in team facilities, and religious activities led by a team chaplain. Evangelical Christianity was embedded in the program and Coach Scott was a major instigator of this unconstitutional conduct. He notoriously tweeted in 2012, "Highlight of my week...was seeing DeAndre Hopkins get Baptized in front of his teammates on Thursday after practice." He also tweeted a video of a player being baptized in front of the team during one of the "Church Day" trips.

We request that FSU take preemptive action to ensure that the University complies with both the U.S. and Florida Constitutions as Coach Scott takes over the football program.

The Supreme Court has continually struck down school-sponsored proselytizing in public schools. *See, e.g. Abington Township Sch. Dist. V. Schemp*, 374 U.S. 203 (1963)(declaring unconstitutional devotional Bible reading and recitation of the Lord's Prayer in public

schools); *Engel v. Vitale*, 370 U.S. 421 (1962) (declaring prayers in public schools unconstitutional); *Lee v. Weisman*, 505 U.S. 577 (1992) (ruling prayers at public school graduations an impermissible establishment of religion); *Sante Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000) (striking down a school policy that authorized students to vote on whether to hold a prayer at high school football games). In all of these cases, the federal courts have struck down school prayers because it constitutes a government advancement and endorsement of religion, which violates the Establishment Clause of the First Amendment.

In *Mellen v. Bunting*, the Fourth Circuit Court of Appeals extended the scope of the aforementioned cases from primary and secondary schools to college-aged students when institutional circumstances create a coercive religious environment. *Mellen v. Bunting*, 327 F.3d 355 (4th Cir. 2003). The court found that supper prayer at a state military college (VMI) was an unconstitutional violation of the Establishment Clause given the coercive atmosphere.

FSU's authority over student athletes is similar to that of VMI in that much of the players' conduct is closely monitored and critiqued by coaching staff. Players trying to please their coach surely will feel immense pressure to participate in religious activities and go along with Coach Scott.

It is no defense to call these religious activities "voluntary." Courts have summarily rejected arguments that voluntariness excuses a constitutional violation. *See, generally, Lee v. Weisman*, 505 U.S. at 596 ("It is a tenet of the First Amendment that the State cannot require one of its citizens to forfeit his or her rights and benefits as the price of resisting conformance to state-sponsored religious practice."); *Abington Sch. Dist. v. Schempp*, 374 U.S. 203, 288 (1963)(Brennan, J., concurring)("Thus, the short, and to me sufficient, answer is that the availability of excusal or exemption simply has no relevance to the establishment question..."); *Mellen v. Bunting*, 327 F.3d at 372 ("...VMI cannot avoid Establishment Clause problems by simply asserting that a cadet's attendance at supper or his or her participation in the supper prayer are 'voluntary.'").

Coach Scott's team is full of young and impressionable student athletes who would not risk giving up their scholarship, giving up playing time, or losing a favorable recommendation from the coach by voluntarily opting out of his unconstitutional religious activities—even if they strongly disagreed with his beliefs. Coaches exert great influence and power over student athletes and those athletes will follow the lead of their coach. Using a coaching position to promote Christianity amounts to religious coercion.

FSU is home to students of various religious beliefs and non-religious views. Students should not be made to feel like they do not belong because a University employee with power over them disapproves of their beliefs. Nationally, about 38% of young Americans, such as your students, are nonreligious.¹ If unchecked, religious activities within the football program will alienate and exclude a significant portion of your students.

¹ Robert P. Jones & Daniel Cox, *America's Changing Religious Identity*, Public Religion Research Institute (2017), available at: <https://www.prrri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf>

FSU must take action to protect student athletes and to ensure that Coach Scott understands that he has been hired as a football coach and not a pastor. We request that the University ensure that the football program *does not*:

- 1) institute team prayers;
- 2) hire or appoint a team chaplain;
- 3) engage in religious rituals as part of team events (such as religious services or player baptisms); and
- 4) discriminate in hiring support staff on the basis of religion.

In order to ensure compliance with the law, we request that the University:

- 1) review or adopt appropriate policies to ensure that religious discrimination does not occur within athletic programs;
- 2) train staff to ensure compliance with the law and University policies; and
- 3) monitor athletic program activities to ensure compliance.

We appreciate your attention to this matter.

Sincerely,



Patrick Elliott
Senior Counsel

Cc: Mr. Michael Kelly, Vice President of Athletics
(michaelskelly@usf.edu)