

FREEDOM FROM RELIGION *foundation*

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November 3, 2023

SENT VIA EMAIL & U.S. MAIL: sjackson@spencerfane.com

Samuel L. Jackson
Legal Counsel
511 Union Street, Suite 1000
Nashville, TN 37219

Re: Unconstitutional religious promotion in basketball program (Robertson County Schools)

Dear Mr. Jackson:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a serious constitutional violation that occurred in Robertson County Schools (RCS). We have yet to receive a response to our September 14, 2023 letter regarding a different constitutional violation in RCS. We hope to receive a timely response to both this letter and our previous letter soon. If you are no longer counsel for RCS, please advise.

We received a report that the White House Heritage High School boys basketball coaches invited a representative of the religious organization Middle Tennessee Fellowship of Christian Athletes, Andrew Fortner, to proselytize and indoctrinate student athletes during a recent practice. It is our understanding that Mr. Fortner required several basketball players to wash the feet of other students while he read biblical scripture to the students. Per a November 1, 2023 post on Mr. Fortner's Facebook page:

5 Heritage players won a free throw shooting competition at practice and knew there would be a prize waiting for them. What was their prize... to wash the feet of their teammates! While we washed feet I read JOHN 13:4-16 and shared how Jesus served his disciples.

I stressed the need for our team leaders to chase the TOWEL over the TITLE. I cannot wait for more time to disciple these boys throughout the season! Shoutout to Robert Green for the lesson idea!
Northern Middle TN FCA¹

The post includes photographs of the select students washing other students' feet and Mr. Fortner reading the bible to the players. Please see the enclosed copy of the post.

¹<https://www.facebook.com/andrew.fortner.5/posts/pfbid0XGaiJUx9CpG8WkBWGOdyY5wSoVTHX1ARS2b131UH2XFdGLGxdSvj9SezXD1HtXM3l>

We ask that RCS investigate this matter and ensure that the White House Heritage HS basketball program ceases infusing the program with religion. The basketball program and its coaches cannot be permitted to invite and allow an outside adult to proselytize student athletes and require them to engage in religious activities.

As we previously stated, student athletes have the First Amendment right to be free from religious indoctrination when participating in their public school's athletics program. It is illegal for public school athletic coaches to invite and allow a religious organization's representative to proselytize students or require student athletes to participate in religious activities, including washing students' feet in order to mimic a story from the bible. The Supreme Court has continually struck down school-sponsored religious exercises in public schools. *See, e.g., Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 308 (2000) (holding student-led prayer over the loudspeaker before football games unconstitutional.); *Lee v. Weisman*, 505 U.S. 577 (1992) (finding prayers at public high school graduations an impermissible establishment of religion); *Wallace v. Jaffree*, 472 U.S. 38 (1985) (overturning law requiring daily "period of silence not to exceed one minute . . . for meditation or daily prayer"); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963) (holding school-sponsored devotional Bible reading and recitation of the Lord's Prayer unconstitutional); *Engel v. Vitale*, 370 U.S. 421 (1962) (declaring school-sponsored prayers in public schools unconstitutional).

Student athletes are especially susceptible to coercion. Students know that their coaches control their playing time and positions, directly affecting students' opportunities for college scholarships and recruitment. When coaches promote their personal religion to students and invite an outside adult, such as Mr. Fortner, to instruct students to act out a biblical story while reading them scripture, the student athletes will no doubt feel that agreeing with their coach's religious viewpoint and participating in the religious activities is essential to pleasing their coach and being viewed as a team player. It is unrealistic and unconstitutional to put student athletes to the choice of allowing their constitutional rights to be violated in order to maintain good standing in the eyes of their coach and peers or openly dissenting at the risk of retaliation from their coach and teammates.

The Supreme Court's 2022 decision in *Kennedy v. Bremerton School District* did not change the law or overturn the previously cited cases. In *Kennedy*, the Court held that a high school football coach's silent, private post-game prayer was constitutional. 142 S.Ct. 2407, 2415–16 (2022). The Court repeatedly stressed that the coach silently prayed alone. *Id.* (the coach "offered his prayers quietly while his students were otherwise occupied."). The prayers "were not publicly broadcast or recited to a captive audience. Students were not required or expected to participate." *Id.* at 2432. In contrast, the White House Heritage HS boys basketball coaches have infused the program with religion. The school invited and allowed Mr. Fortner to read the bible to students while requiring some students to mimic a story from biblical scripture all as part of a school-sponsored basketball practice.

RCS must immediately investigate this matter and take action to protect its students. The White House Heritage HS boys basketball coaches must be reprimanded and directed to cease including coercive religious activities and practices in the basketball program. We further request that RCS

remind all its coaches that they may not proselytize or push their personal religious beliefs onto students nor direct or invite an outside adult to do so. Please inform us in writing of the steps RCS is taking to remedy this serious violation of the First Amendment. Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Samantha F. Lawrence". The signature is written in a cursive style with a large initial 'S' and a distinct 'L'.

Samantha F. Lawrence
Anne Nicol Gaylor Legal Fellow
Freedom From Religion Foundation

Enclosure



Andrew Fortner is with [redacted] and 5 others.

18h · 🌐



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