

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

FREEDOM FROM RELIGION FOUNDATION, INC.;
ANNE NICOL GAYLOR;
ANNIE LAURIE GAYLOR;
and DAN BARKER,

Plaintiffs,

v. (Case No. 06 C 0244 S)

UNITED STATES ATTORNEY GENERAL ALBERTO R. GONZALES
HARLEY G. LAPPIN, DIRECTOR OF FEDERAL BUREAU OF PRISONS
and CLAY JOHNSON III, DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET,

Defendants.

COMPLAINT

The plaintiffs for their complaint allege as follows:

1. This is an action by the plaintiffs brought against the defendants alleging violations of the Establishment Clause of the First Amendment to the United States Constitution.
2. This court has federal question jurisdiction pursuant to 28 U.S.C. r 1331.
3. Venue is appropriate in the District Court for the Western District of Wisconsin pursuant to 28 U.S.C. r 1391(e).
4. The plaintiff, Freedom From Religion Foundation, Inc. ("FFRF"), is a Wisconsin non-stock corporation whose principal office is in Madison, Wisconsin.
5. FFRF has more than 6,600 members, including federal taxpayers, who are opposed to government endorsement of religion in violation of the Establishment Clause of the First Amendment to the United States Constitution.
6. FFRF's purpose is to protect the fundamental constitutional principle of separation of church and state by representing and advocating on behalf of its members.
7. The plaintiff, Anne Nicol Gaylor, is a federal taxpayer residing in Madison, Wisconsin, and she is a member of and former president of FFRF, and she is a non-believer who is opposed to governmental endorsement of religion.
8. The plaintiff, Annie Laurie Gaylor, is a federal taxpayer residing in Madison, Wisconsin, and she is a member of and co-president of FFRF, and she is the Editor of FFRF's periodical "Freethought Today," and she is also a non-believer who is opposed to governmental endorsement of religion.
9. The plaintiff, Dan Barker, is a federal taxpayer residing in Madison, Wisconsin, and he is a member of and co-president of FFRF, and he is Public Relations Director of FFRF, and he is also a non-believer who is opposed to governmental endorsement of religion.
10. The plaintiffs are opposed to the use of congressional taxpayer appropriations to advance and promote religion.
11. The defendant, Alberto R. Gonzales, is the Attorney General of the United States of America and he is the head of the United States Department of Justice, of which the Bureau of Prisons is a part.
12. Attorney General Gonzales is sued in his official capacity as the head of the United States Department of Justice.

13. The defendant, Harley G. Lappin, is the Director of the Federal Bureau of Prisons, a part of the United States Department of Justice.
14. Mr. Lappin is sued in his official capacity as the Director of the Federal Bureau of Prisons.
15. The defendant, Clay Johnson III, is the Director of the Office of Management and Budget.
16. Mr. Johnson III is sued in his official capacity as the Director of the Office of Management and Budget.
17. The Federal Bureau of Prisons is funded by taxpayer appropriations from the United States Congress.
18. The defendants, Attorney General Gonzales and Mr. Lappin, who are sued in their official capacities, are responsible for utilizing Congressional taxpayer appropriations as alleged herein.
19. The Federal Bureau of Prisons has solicited proposals for the provision of a single-faith, residential re-entry program at one or more pilot site institutions.
20. The purpose of the residential re-entry program is to facilitate "personal transformation" of participating inmates.
21. The residential re-entry program of the Bureau of Prisons is intended to effect the spiritual development of participating inmates.
22. The Bureau of Prisons intends to make awards to one or more contractors, who must develop a curriculum that demonstrates consistency with program goals and outlines how the contractor plans to incorporate program components, including spiritual development; spiritual development is a required program component.
23. The Bureau of Prisons intends to make awards to one or more contractors, which contractor(s) must make available a single-faith, residential re-entry program, consistent with the requirements of the Bureau's solicitation, including the program component for spiritual development.
24. The Federal Bureau of Prisons has already issued a formal solicitation seeking proposals for the new pilot program, wherein the contractor(s) are required to design and implement faith-based programming for a single-faith, residential re-entry cell block at one or more pilot site prisons.
25. The program for which the Bureau of Prisons is soliciting proposals is known as the Life Connections Program.
26. The purpose of the Life Connections residential re-entry program is to facilitate "personal transformation" of the participating inmates through the development of the inmates' spirituality or faith.
27. The Life Connections Program is a collaboration between the Department of Justice Task Force for Faith-Based and Community Initiatives, which Task Force encourages/promotes the utilization of Congressional appropriations for faith-based initiatives.
28. The Bureau of Prisons has designated six of its institutions as sites where the Life Connections residential re-entry program services will be newly established, including the Seagoville Federal Correctional Institution, the Beaumont Federal Correctional Complex, the Hazelton United States Penitentiary, the Fort Dix Federal Correctional Institution, the Edgefield Federal Correctional Institution, and the Tucson Federal Correctional Institution.
29. The mission of the Life Connections Program is to facilitate personal transformation by providing inmates with an intensive opportunity for alleged personal growth through the sharing of common living space and program components, including faith-based components.
30. Proposals for the Life Connections Program, at a minimum, must outline how the contractor(s) plans to incorporate program components which foster growth in program goal areas, including spiritual development.

31. Participants in the Life Connections Program will live together in a single-faith housing unit designated by the Bureau of Prisons.
32. Participants in the Life Connections Program will engage in program components designed to foster personal growth in the program goal areas, including spiritual development.
33. The Bureau of Prisons' solicitation for a single-faith, residential re-entry program at six pilot site institutions represents an expansion of the Life Connections Program that the Bureau of Prisons has been operating since at least 2003.
34. The Bureau of Prisons Life Connections Program is a single-faith residential, faith-based restorative justice program based upon the premise that inmates should develop their faith and spirituality.
35. The Life Connections Program, as it has been operated, is an eighteen-month program designed to effect personal transformation using the participant's faith commitment.
36. Inmates participate in religion-specific and interfaith program components designed to cause inmates to explore faith as a way to restoration with one's god, family, community, and self.
37. The Life Connections Program, as it has been operated by the Bureau of Prisons, brings spiritual guides into the prison facilities under contract with the Bureau of Prisons; the spiritual guides lead small group studies of sacred religious texts.
38. Participants in the Life Connections Program are matched with faith mentors who visit weekly, and participants also are linked with a faith-based community at their release destination.
39. The Bureau of Prisons has been operating the Life Connections Program in at least five program sites since 2003, including the Federal Correctional Institution at Milan, Michigan, the U.S. Penitentiary at Leavenworth, Kansas, the Federal Medical Center at Carswell, Texas, the Federal Correctional Institution at Petersburg, Virginia, and the Federal Correctional Institution at Victorville, California.
40. The Life Connections Program is implemented by the Religious Services Branch of the Bureau of Prisons.
41. The Life Connections Program that is being implemented by the Bureau of Prisons was designed by Chaplain Kendall Hughes, a Chaplain employed by the Federal Bureau of Prisons.
42. Chaplain Hughes designed a faith-based model for reforming inmates based on the premise that inmates should pursue, nurture and commit themselves to religious faith.
43. All inmates in the Life Connections Program are housed together so that they are not subjected to the harassment and temptations of normal prison life.
44. The Life Connections Program has been endorsed by the Federal Bureau of Prisons, and the Program has already been implemented in five facilities.
45. The Life Connections Program implements, in part, President Bush's faith-based initiative.
46. According to the head of the White House Office of Faith Based Initiatives, Jim Towey, faith based initiatives are intended to transform lives.
47. The Bureau of Prisons has developed and implemented the Life Connections Program with the aim to provide participants with alleged moral and spiritual principles.
48. The Bureau of Prisons has developed the Life Connections Program because of a belief in the alleged potency of faith to change behavior.

49. The Bureau of Prisons has already previously hired individuals as Life Connections Program Facilitators and Life Connections Program Community Liaisons at the institutions where the program has been implemented.

50. The Life Connections Facilitator, under contract with the Bureau of Prisons, is responsible for coordinating all program components, facilitating workshops, seminars and other programming needs, and using the Life Connections Program "curriculum."

51. The Life Connections Facilitators hired by the Bureau of Prisons are required to possess a degree from an accredited college or university, with a major in religious studies, religious education, or related curriculum.

52. The defendant, Attorney General Gonzales, has admitted that the Department of Justice is expanding the Bureau of Prisons' Life Connections Program, which he describes as providing life-skills education in concert with each prisoner's spirituality or faith.

53. The defendants, Gonzales and Lappin, for their parts and in their individual capacities, oversee and are responsible for the disbursement of Congressional tax appropriations made to the Department of Justice and the Bureau of Prisons, including funds appropriated for the substantive integration of religion into prison programming.

54. The direct funding of religious programming by the defendants Gonzales and Lappin, in their official capacities, is not intended merely to accommodate the religious free exercise rights of inmates, but rather the Bureau of Prisons' religious programming is based upon the intent to encourage and promote the development of faith among inmates.

55. The defendants Gonzales and Lappin, in their official capacities, have engaged in activities that violate the Establishment Clause of the First Amendment to the United States Constitution, including by funding, with Congressional tax appropriations made pursuant to Article I, § 8, of the Constitution, programs that integrate religion as a substantive and integral component.

56. The defendants Gonzales and Lappin have been and are responsible for the use of federal taxpayer appropriations to integrate religion as a substantive and integral component of programs delivered by the Bureau of Prisons.

57. The integration of religion and spirituality into the Life Connections Program is intended to promote religion and belief.

58. The actions of the defendants Gonzales and Lappin, in using taxpayer money to integrate religion as part of the programming of the Bureau of Prisons, including the Life Connections Program, violate the fundamental principle of the separation of Church and State by using Congressional taxpayer appropriations to intentionally support activities that endorse religion.

59. The actions of the defendants Gonzales and Lappin in disbursing and utilizing taxpayer money to support the integration of religion into the Bureau of Prisons' programs, including the Life Connections Program, give the appearance of the government's official support for and advocacy of religion, including the current solicitation for proposals to provide single-faith programming.

60. The actions of the defendants Gonzales and Lappin in utilizing taxpayer money to support the integration of religion into prison programs give support to and the appearance of the endorsement of religion, including the endorsement of the single-faith selected for each new program site.

61. The disbursement of Congressional appropriations, made pursuant to Article I, § 8 of the United States Constitution, for the purpose of supporting the integration of religion into prison programming, gives actual and apparent government endorsement and advancement of religion.

62. The actions of the defendants Gonzales and Lappin in utilizing Congressional taxpayer appropriations to endorse and advance religion violate the Establishment Clause of the First Amendment to the United States Constitution.

63. The actions of the defendants Gonzales and Lappin in violating the Establishment Clause of the First Amendment

to the United States Constitution are injurious to the interests of the plaintiffs individually, and to FFRF in its representative capacity, because the defendants' actions compel the plaintiffs to support the establishment, endorsement and advancement of religion to which the plaintiffs object.

64. The Office of Management and Budget, under the direction of the defendant Clay Johnson III, for its part, also engages in prohibited actions which give the appearance that federal agencies, like the Bureau of Prisons, should make more appropriations to faith-based organizations in federal program contracting merely based on the status of being a faith-based organization.

65. The Office of Management and Budget too is funded by taxpayer appropriations from the United States Congress, pursuant to Article I, ¶8, of the United States Constitution.

66. The Office of Management and Budget utilizes Congressional taxpayer appropriations in activities intended to cause federal agencies to disburse, in turn, more government contracts to faith-based organizations.

67. The Office of Management and Budget utilizes Congressional taxpayer appropriations in its own activities, which in turn give the appearance of promoting the disbursement of more federal contracts to faith-based organizations by federal agencies, which is the intent of the Office of Management and Budget's actions.

68. The Office of Management and Budget engages in activities that create an atmosphere intended to cause federal agencies to increase their contracting with faith-based organizations merely because the organizations are faith based.

69. The actions of the Office of Management and Budget are intended to promote and cause the disbursement of more Congressional appropriations to faith-based organizations.

70. The Office of Management and Budget, in particular, evaluates, reviews and gives a "report card" to each major federal agency, which report cards, on information and belief, grade the agencies on the extent to which they have disbursed and/or increased their appropriations to faith-based organizations.

71. The Office of Management and Budget "grades" each federal agency, such as the Department of Education, the Department of Justice, the Department of Labor, the Department of Health and Social Services, the Department of Agriculture, the Department of Housing and Urban Development, etc., on the extent to which each agency disburses/increases appropriations made to faith-based organizations.

72. The actions of the Office of Management and Budget in grading federal agencies on their disbursement of Congressional appropriations to faith-based organizations are intended to cause increased disbursements to faith-based organizations merely because such organizations are faith-based; report cards, by definition, measure success against a standard that agencies are expected to achieve.

73. The defendant, Johnson III, for his part and in his individual capacity, oversees and is responsible for the use of Congressional tax appropriations made to the Office of Management and Budget, including funds appropriated for activities intended to cause federal agencies to increase disbursements of Congressional appropriations to faith based organizations.

74. The actions of the Office of Management and Budget are based upon the premise that funding should normatively be increased to faith-based organizations -- merely because such organizations are faith-based.

75. The defendant, Johnson III, in his official capacity, therefore has engaged in activities that violate the Establishment Clause of the First Amendment to the United States Constitution because the actions of the Office of Management and Budget are intended to selectively cause increased funding by federal agencies for faith-based organizations as such.

76. The actions of the defendant, Johnson III, in using taxpayer money to cause pressure for increased funding for faith-based organizations, violate the fundamental principle of separation of church and state, including because such actions have a reasonable likelihood of causing federal agencies to increase funding for faith-based organizations merely because of their faith-based status.

77. The actions of the defendant, Johnson III, give the appearance of the government's official support for and advocacy of religion.

78. The actions of the defendant, Johnson III, give support to and the appearance of the endorsement of increased funding for faith-based organizations merely because such organizations are faith-based.

79. The actions of the defendant, Johnson III, in utilizing Congressional taxpayer appropriations to endorse and advance religion violate the Establishment Clause of the First Amendment to the United States Constitution.

80. The actions of the defendant, Johnson III, in violating the Establishment Clause of the First Amendment to the United States Constitution are injurious to the interests of the plaintiffs individually, and to FFRF in its representative capacity.

WHEREFORE, the plaintiffs demand judgment as follows:

a. For judgment declaring that congressional taxpayer disbursements made by the defendants have been used in violation of the Establishment Clause of the First Amendment to the United States Constitution;

b. For an order enjoining the defendants from continuing to disburse and use appropriations in violation of the Establishment Clause of the First Amendment to the United States Constitution;

c. For an order requiring the defendants to establish rules, regulations, prohibitions, standards and oversight to ensure that future disbursements are not made and/or used to fund activities that include religion as a substantive integral component, including funding for the Life Connections Program;

d. For an order requiring the defendants to establish rules, regulations, prohibitions, standards and oversights to insure that future disbursements are not made and/or used to selectively fund activities that include a single faith as an integral component;

e. For an order enjoining the defendant, Johnson III and the Office of Management and Budget, from engaging in activities that pressure, encourage and/or create an atmosphere of preference for making appropriations by federal agencies to faith-based organizations;

f. For judgment awarding such further relief as the court deems just and equitable; and

g. For judgment awarding the plaintiffs their reasonable costs, disbursements and attorneys' fees as allowed by law.

Dated this 4th day of May, 2006.

Richard L. Bolton, Esq.
Boardman, Suhr, Curry & Field LLP
1 South Pinckney Street, 4th Floor
P. O. Box 927
Madison, WI 53701-0927
Telephone: (608) 257-9521
Facsimile: (608) 283-1709
Attorneys for Plaintiffs