

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE**

KELLY BUTLER, on his own behalf and as the natural parent and next friend of his minor children, H.B. and P.B.; JASON CARR and SHARONA CARR, on their own behalf and as the natural parents and next friends of their minor children, L.C. and D.C.,

Plaintiffs,

v.

SMITH COUNTY BOARD OF EDUCATION; BARRY H. SMITH, in his official capacity as Director of Schools of the Smith County School System; KELLY BELL, in her official capacity as Principal of Smith County Middle School; and DUSTY WHITAKER, in his official capacity as Principal of Smith County High School,

Defendants.

Civil No.: 2:19-cv-00091

Judge: Waverly D. Crenshaw, Jr.

Magistrate Judge:

**DECLARATION OF KELLY BUTLER IN SUPPORT
OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

I, Kelly Butler, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am one of the Plaintiffs in the above-captioned case. I am suing individually (on behalf of myself) and on behalf of my minor children, H.B. and P.B.,¹ who are currently enrolled in Smith County High School.
2. I am an atheist and have raised my children to be non-believers.

¹ Per the Middle District of Tennessee User Manual, Version 6.2.3, Chapter 3, Section V(B) and the Amended Practices and Procedures for Electronic Case Filing, dated Aug. 21, 2015, Section 5,10(b), this declaration refers to the minor Plaintiffs by their initials.

3. Smith County School System officials have repeatedly subjected my children to prayer, proselytizing, and other promotion of religion. In most instances, these activities explicitly promote Christianity.

4. I have witnessed several instances in which school officials have promoted religion.

5. I attended the 2018 Veterans Day assembly at Smith County Middle School. P.B. was a middle-school student at the time. The assembly took place during the school day and was mandatory for all students. Family and community members were also permitted to attend. As a U.S. Army veteran who has served tours in both Iraq and Afghanistan, I was excited to attend an event honoring military service. However, my excitement turned to dismay as the event concluded. Before ending the assembly, Principal Bell announced that there would be a prayer and introduced the designated student-prayer-giver. She then passed the student a microphone, and the student delivered a Christian prayer in Jesus's name. Administrators, teachers, and nearly all students bowed their heads for the prayer.

6. As a veteran and atheist, and as a parent whose child was subjected to this official prayer, I was deeply offended. After the assembly let out, I approached Principal Bell to tell her that I found the prayer disrespectful of my service and other veterans' service. When I calmly voiced my objections to the prayer, Principal Bell screamed at me, asking why I was there if I was going to complain. She then asked police officers who were present at the event to escort me off of school property.

7. Subsequently, I attended a school-board meeting to discuss what happened at the Veterans Day assembly. I attempted to speak during the open-comment period, but was not allowed to do so because I had not been put on the list of commenters before the meeting began. I asked how I could be put on that list for the next meeting, but no one would tell me.

8. I also called the Smith County Schools System's attorney to attempt to resolve the issue. He stated that he would look into the matter and call me back. However, he never did and would not accept my calls thereafter.

9. The middle-school graduation ceremony last year, which I attended to watch P.B. graduate, also incorporated Christian prayer.

10. Last school year, every time I would visit the middle school, there were several Bibles perpetually displayed on side tables adjacent to chairs in the breezeway, located just inside the school's front doors. A Bible was also frequently displayed on a decorative table in the hallway leading from the school's main entrance, alongside rotating flower arrangements and students' art work. And, in the main administrative office, several Bibles were continuously displayed on a table. I could discern no educational or academic reason for specially displaying Bibles in these locations and in this manner.

11. Most recently, I attended a concert in which my daughter, H.B., was required to perform as a member of the concert band. At the September 12, 2019 event, Smith County High's music department presented a religious program entitled, "An Afternoon of Hymns," in the school auditorium. School officials had invited two local church choirs to sing at the event, which focused entirely on religious music.

12. The music department's promotional material for the concert featured a photo of the inside of a cathedral. Attached as Exhibit A is a true and correct copy of a screenshot of the advertisement for the event, which was posted on Facebook by the school's music department. I saved the screenshot because I was concerned about whether this event would subject my daughter to proselytizing or other inappropriate promotion of religion.

13. During the event, a representative of one of the church choirs took to the microphone and led an exchange that I would characterize as a religious call-and-response:

Speaker: I must say this is a great way to end a hard day of work isn't it.

Audience: Amen.

Speaker: What a blessing to be able to come together as a community and sing songs about the one that made us.

Audience: Amen.

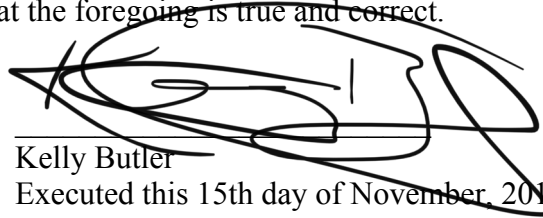
Speaker: Isn't that great? Thank you for letting us be here. We're a little short in our number today, but we're going to do our best and sing from our hearts and hopefully it will be a blessing to you.

14. After these remarks, the speaker's choir then performed the hymn, "Jesus, What A Beautiful Name."

15. As I explained to Principal Bell after the Veterans Day assembly, I object to and am deeply offended by school officials' sponsorship of prayer and proselytizing, which promote religious beliefs that neither I nor my children accept. I do not consent to these practices. These officials' promotion of religious exercise and messages is unwelcome and has caused me and my children to feel like second-class, disfavored members of the school community. We have felt coerced into joining prayers and have experienced pressure more generally to adopt school officials' favored religious beliefs.

16. In addition, by imposing religious exercise on my children and promoting religion to them, I feel that school officials have arrogated for themselves my right to direct my children's religious education.

I hereby declare under penalty of perjury that the foregoing is true and correct.



Kelly Butler
Executed this 15th day of November, 2019