

**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 H.B. IN SUPPORT  
OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

I, H.B.,<sup>1</sup> pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am one of the Plaintiffs in the above-captioned case. I am currently a student at Smith County High School. Before that, I was a student at Smith County Middle School.

2. Although I am an atheist, I have had to endure numerous instance of school officials promoting religion at both the middle school and high school.

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<sup>1</sup> 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. School events have often included prayer. For example, as a member of the high-school marching band, I am required to attend and perform at football games. Every home football game begins with a prayer over the loudspeaker. The prayers are always explicitly Christian, referencing Jesus or biblical scripture. Almost all people in the audience and on the field, including coaches, bow their heads during these prayers. Sometimes coaches and team members kneel together on the field during the prayers.

4. Last school year, every high-school pep rally included prayer led by staff. Pep rallies are mandatory for all students and are held during the school day.

5. On Veterans Day last school year, a high school administrator interrupted class to read a special Veterans Day prayer over the public-address system. The administrator prayed that “God would stay with our soldiers and keep them safe.”

6. My middle-school graduation featured a Christian prayer. I attended the 2019 middle-school graduation ceremony for my sister, P.B., and that also included Christian prayer.

7. As a member of the concert band, I will be required to attend and perform at the 2020 Smith County High School graduation ceremony. I’ve been informed by friends that these ceremonies have incorporated prayer in the past, including last year.

8. My homeroom and math teacher, Charles Gross, has told students who have gotten in trouble that they should go to church or need Jesus in their life. In one instance, he made this type of comment after becoming very angry because a classmate had repeatedly failed to turn in homework assignments.

9. Last year, on Homecoming Day, my homeroom class was redirected to Janet Bailey’s classroom for the homeroom period because Mr. Gross was absent. After students arrived,

Ms. Bailey started the day by reading aloud to us from the Bible. She stated that she started all of her classes by doing this and that she would do the same that day.

10. It is well known among students that Ms. Bailey reads the Bible to students during her classes. I have heard many students complain about it. A friend reported to me last year that he sometimes held up a piece of paper during these readings on which he had written that they were illegal but Ms. Bailey continued the practice anyway.

11. As students following the high school's "university track" curriculum, both P.B. and I will be required to take the economics course taught by Ms. Bailey in order to graduate.

12. Last school year, various religious messages were posted in the halls of Smith County High School. For example, a sign displayed on one classroom door stated, "Whatever you do, work at it with all your heart, as working for the Lord.' – COLOSSIANS 3:23." A sign on another classroom door stated, "TRUST in the LORD with all your Heart and lean not on your own understanding – PROV 3:5." And a large sign hanging outside the school's cafeteria stated, "Your Talent is GOD'S gift to you[,] what you do with it is your gift back to GOD." True and correct copies of photographs of each sign are attached as Exhibits A, B, and C, respectively.

13. These signs were put up over the course of the school year. I believe they were finally removed as part of a school-wide cleaning for the current school year.

14. Religious signs have begun to appear again at school: Ms. Bailey's classroom door and the classroom door for science teacher Jason Harville feature posters with and a citation to a Bible verse.

15. A large cross next to the words, "In God We Trust," is painted on the wall of the high school's weight-training room. The facility is next to a parking lot where the marching band

practices. In order to use the restroom during those practices, I and other band members must go through the weight-training room and past the cross display.

16. On the evening of September 12, 2019, Smith County High School's music department presented a religious program entitled, "An Afternoon of Hymns," in the school auditorium. School officials invited two local church choirs to sing at the event. As a member of the concert band, I was required to attend and perform alongside the church choirs or receive a grade of zero for the event. During the concert, a representative of one of the church choirs took over the microphone to tell us that it was a blessing to be able to perform songs about "the one who made us." The choir then performed a hymn about Jesus.

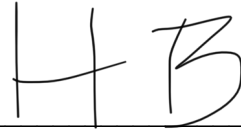
17. Smith County Middle School's library teacher, Martha Holladay, frequently promoted her religious beliefs to students when I was there. I saw her display a cross and religious messages in the library. Near Easter, she used class time to show my eighth-grade class a film about Jesus's crucifixion. I believe that the film was called, "The Passion of the Christ."

18. When I was a student at the middle school, adult visitors hosted religious assemblies in the gym during instructional time on some mornings. School staff would announce over the intercom that the "FCA" meeting was about to begin. Teachers and administrators sometimes stood at the gym entrance encouraging students to attend, noting that students could play games and have fun during the events. The assemblies would last ten to twenty minutes after the beginning of the school day, when classes had already begun. Students whose first-period teachers attended the assemblies had to wait in the hallway outside of their locked classrooms for up to twenty-five minutes until the teachers returned and belatedly began teaching their classes.

19. School sponsorship of prayer and religious messages makes me deeply uncomfortable because I am an atheist. I have felt (and continue to feel) coerced to participate in

school-sponsored prayers. Due to the official prayers, religious messages, and other religious activities, I feel that school officials are trying to pressure me into becoming a Christian. I feel like I'm an outsider or unwelcome because I am not a Christian, and it is clear that school staff prefer Christians over non-Christians. I think it's unfair that I have to be exposed to official prayers and religious messages just to attend school and school events.

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



H.B.

Executed this 15th day of November, 2019