

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

SAM DOE 1,
SAM DOE 2, (A MINOR BY AND
THROUGH HER PARENT AND NEXT OF
FRIEND,) AND
SAM DOE 3,
C/O ACLU OF OHIO
4506 CHESTER AVENUE
CLEVELAND, OHIO 44103

Plaintiffs,

v.

JACKSON CITY SCHOOL DISTRICT,
JACKSON CITY BOARD OF EDUCATION,
AND PHIL HOWARD, IN HIS OFFICIAL
CAPACITY AS SUPERINTENDENT OF
JACKSON CITY SCHOOL DISTRICT,
450 VAUGHN STREET
JACKSON, OHIO 45640

Defendants.

CIVIL ACTION NO.

JUDGE

**VERIFIED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF, DAMAGES, AND STATUTORY
ATTORNEYS' FEES**

INTRODUCTION

1. This is a challenge to the constitutionality of the maintenance and display of a portrait depicting Jesus Christ in the Jackson Middle School which is located within the jurisdiction of Defendant, Jackson City School District. The maintenance and display of the portrait has the effect of advancing and endorsing one religion, improperly entangling the State in religious affairs, and violating the personal consciences of Plaintiffs.

2. Plaintiffs seek a declaration that the Defendants' maintenance of the portrait of Jesus in a public school constitutes a violation of the Establishment Clause of the First Amendment, which

is incorporated to apply to the states by the Fourteenth Amendment to the United States Constitution, and also a violation of Article I, §7 of the Constitution of the State of Ohio. Plaintiffs further seek an injunction prohibiting the Defendants from maintaining or displaying such portrait or a substantially similar display, now or in the future.

JURISDICTION AND VENUE

3. The claims for relief and the causes of action alleged herein arise under the First and Fourteenth Amendments to the Constitution of the United States and under Article I, §7 of the Constitution of the State of Ohio.

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§1331 and 1343.

5. Declaratory and injunctive relief is sought pursuant to 28 U.S.C. §§2201 and 2202.

6. Venue is proper in this Court under 28 U.S.C. §1391(b) because Defendants reside in this State and because a substantial part of the events that are the subject of this action arose in this judicial district.

THE PARTIES

7. Plaintiff Sam Doe 1, resides within the jurisdiction of the Jackson City School District and has a child enrolled in and attending Jackson Middle School.

8. Plaintiff Sam Doe 2, resides within the jurisdiction of the Jackson City School District and is a student enrolled in and attending Jackson Middle School. Plaintiff Sam Doe 2 is filing suit by and through parent and next friend.

9. Plaintiff Sam Doe 3, resides within the Jackson City School District and has children that attend one of the public elementary schools. Plaintiff Sam Doe 3's children

participate in various school events held at Jackson Middle School, including the annual elementary school "Christmas Concert."

10. Defendant Jackson City School District, is a political subdivision of the State of Ohio and has as its primary mission, the education of school age children that reside in the City of Jackson.

11. Defendant Jackson City Board of Education, is the elected Board of the Jackson City School District which has as its primary responsibility the establishment of policies for the education of school age children that reside in and around the City of Jackson consistent with the rules and regulations promulgated by the Ohio Department of Education, the State Board of Education, the laws and Constitution of the State of Ohio and the laws and Constitution of the United States.

12. Defendant Phil Howard, is the Superintendent of the Jackson City School District. His primary duty is the implementation of the policies established by the Jackson City Board of Education for the education of school age children that reside in and around the City of Jackson. This implementation must be consistent with the rules and regulations promulgated by the Ohio Department of Education, the State Board of Education, the laws and Constitution of the State of Ohio and the laws and Constitution of the United States of America.

FACTUAL BACKGROUND

13. An entrance wall located in Jackson Middle school prominently displays a portrait of Jesus Christ (hereinafter referred to as "portrait of Jesus,") a figure who plays a central role in the Christian religion and whose image is often used to symbolize the Christian faith. Photos of said portrait are attached hereto as Plaintiffs' Exhibit "A" and Plaintiffs' Exhibit "B."

14. The portrait of Jesus has been hanging in the entrance at Jackson Middle School for some years.

15. Although Defendants Jackson Board of Education and Superintendent Phil Howard were all notified of the fact that the portrait of Jesus on public school property was a violation of the Establishment Clause of the First Amendment to the United States Constitution, they refused to remove the portrait and the Superintendent specifically stated that, "it would take a court order to remove the picture."

16. Plaintiffs all reside within the limits of Jackson City School District. Plaintiffs are parents of children or students who attend the Jackson City School District.

17. Plaintiff Sam Doe 1, is the parent of a child that is currently enrolled in and attends Jackson Middle School. Sam Doe 1 does not identify as being of any one particular religion. Given the prominent placement of the portrait of Jesus, Sam Doe 1 has been forced to view the portrait numerous times upon entering the middle school to fulfill parental responsibilities. The presence of the portrait at Jackson Middle School imposes the beliefs of one particular religion upon Plaintiff Sam Doe 1's child and interferes with the way that Plaintiff chooses to teach about morality and religion.

18. Plaintiff Sam Doe 2, attends Jackson Middle School and views the portrait of Jesus every day when Plaintiff walks through the entranceway to the Middle School. Sam Doe 2 identifies as a person of Christian faith and is offended by the religious portrait hanging in Jackson Middle School because it portrays the image of Jesus in a manner that is inconsistent with said Plaintiff's religious beliefs and expresses the Christian faith in a way that distorts Sam Doe 2's own beliefs about morality and religion.

19. Plaintiff Sam Doe 3, is a parent with elementary school children currently attending one of the public elementary schools in the Jackson City School District. Sam Doe 3's children participate in various events at Jackson Middle School, including the annual elementary school "Christmas Concert" held at Jackson Middle School. Sam Doe 3 attends the program with the children and expects to attend the program in the future. Sam Doe 3 has viewed the portrait of Jesus upon entering the Middle School. Sam Doe 3 does not identify as being of any one particular religion. The presence of the portrait of Jesus at Jackson Middle School imposes the beliefs of one particular religion upon Plaintiff Sam Doe 3's children and interferes with the way that said Plaintiff chooses to teach them about morality and religion.

FIRST CAUSE OF ACTION

(First and Fourteenth Amendments of the U.S. Constitution)

20. Plaintiffs incorporate by reference each and every statement, allegation and averment set forth in paragraphs 1 through 19 above as if fully restated herein.

21. Defendants, by causing, allowing, displaying and maintaining the portrait of Jesus, as described herein, have violated the Establishment Clause of the First Amendment, which is incorporated to the states by the Fourteenth Amendment to the United States Constitution.

22. Defendants' actions, as described herein, have no legitimate secular purpose, and are motivated by a desire to advance a religious purpose.

23. Defendants' actions, as described herein, have the effect of advancing or endorsing one particular religion or religion in general.

24. Defendants' actions, as described herein, improperly entangle the state in religious affairs, issues, or institutions.

25. Display of said portrait of Jesus constitutes an offensive affront to the religious and moral convictions of Plaintiffs, making them feel like outsiders who are being coerced by their government into observing the religious portrait of an individual identified with one particular religion, and who are led to believe that religious beliefs associated with that portrait are endorsed or approved by Defendants.

26. Defendants' actions in displaying the portrait of Jesus constitute an endorsement of religion, and reasonably leave those who come into the school who may not share this religious viewpoint, including the Plaintiffs, to doubt that their religious beliefs, or choice not to practice a religion, will be respected.

27. An actual controversy exists between Plaintiffs and Defendants as to the constitutionality of Defendants' maintenance and display of the portrait of Jesus.

28. Defendants' actions as described herein are acts and conduct performed under color of law within the meaning of 42 U.S.C. § 1983.

29. Defendants' actions as described herein, constitute a custom, usage, or policy within the meaning of 42 U.S.C. §1983.

30. Defendants' unconstitutional acts described above have resulted in irreparable injury to the Plaintiffs.

31. Plaintiffs have no adequate remedy at law and monetary damages cannot fully repair the constitutional injury that Defendants' acts have caused, and will continue to cause, from the maintenance of a religious portrait in the Middle School.

32. Defendants' conduct, as described herein, constitutes actions taken under color of law that has caused and, unless enjoined, will continue to cause, a deprivation of constitutional

rights in violation of the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983.

33. As a direct result of the unconstitutional actions of Defendants, described herein, attorney's fees and costs have been and will continue to be incurred on the Plaintiffs' behalf.

SECOND CAUSE OF ACTION
(Article I, § 7 of the Ohio Constitution)

34. Plaintiffs incorporate by reference paragraphs 1 through 33 above as if fully restated herein.

35. Defendants' actions as described herein violate Article I, § 7 of the Ohio Constitution.

36. As a direct result of these unconstitutional actions, Plaintiffs and other like-minded citizens and residents have suffered, and will continue to suffer permanent, severe and irreparable harm and injury.

37. As a direct result of the unconstitutional actions of Defendants described herein, attorney fees and costs have been and will continue to be incurred by Plaintiffs.

WHEREFORE, Plaintiffs request:

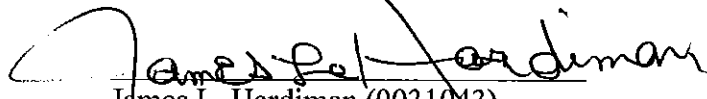
A. That this Court declare that Defendants' conduct, as described herein, has violated the First and Fourteenth Amendments to the United States Constitution, and Article I, § 7, of the Constitution of the State of Ohio;

B. That this Court enter a permanent injunction enjoining Defendants, in their official capacity, and their successors in office, and all their respective agents, employees and others in active concert with them from continuing to maintain the portrait of Jesus or any substantially similar display;

C. That this Court award Plaintiffs reasonable attorney fees and court costs incurred in prosecuting this action, pursuant to 42 U.S.C. § 1988 and Fed. R. Civ. P. 54(d);

D. That this Court grant such additional relief, legal or equitable, as the Court deems appropriate, including but not limited to nominal damages.

Respectfully submitted,



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(Pro Hac Vice Motion to be filed)

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