

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

DANIEL WEISMAN, personally :
and as next friend of DEBORAH :
WEISMAN :

v. :

C.A. NO. 89-0377B

ROBERT E. LEE, indivi- :
dually and as principal of THE :
NATHAN BISHOP MIDDLE SCHOOL; :
THOMAS MEZZANOTTE, individually :
and as principal of CLASSICAL :
HIGH SCHOOL; JOSEPH ALMAGNO, :
individually and as Superin- :
tendent of Schools for the :
Providence School Department; :
VINCENT McWILLIAMS; ROBERT :
DeROBBIO; MARY BATASTINI; :
ALBERT LEPORE; ROOSEVELT :
BENTON; MARY SMITH; ANTHONY :
CAPRIO; BRUCE SUNDLUN; and :
ROBERTO GONZALEZ, indivi- :
dually and as members of the :
Providence School Committee :

AMENDED VERIFIED COMPLAINT

I. JURISDICTION

1. This is a civil action brought under 42 USC §§1983 and 1988 by Plaintiffs to secure injunctive relief against the inclusion of prayer in the graduation ceremonies held in and/or sponsored by the various public schools in the City of Providence and to secure declaratory judgment that inclusion of prayer in public school graduation ceremonies in the City of Providence violates the First and Fourteenth Amendments of the United States Constitution, and Article 1, §3 of the Rhode Island Constitution.

2. This Court has jurisdiction of the matter in controversy pursuant to 28 USC §§1331, 1343, 2201, and 2202, as well as this Court's pendent and ancillary jurisdiction.

10.

II. PARTIES

A. PLAINTIFFS

3. Plaintiff DANIEL WEISMAN is now and at all times pertinent hereto has been a resident and taxpayer of the City of Providence, State of Rhode and the United States of America. Plaintiff regularly pays taxes which finance the operation of city schools.

4. Plaintiff DANIEL WEISMAN is the father and next friend of Deborah Weisman, age 14, who graduated from the eighth grade at the Nathan Bishop Middle School in June, 1989, and who will attend Classical High School, a public high school in the City of Providence, in September, 1989.

B. DEFENDANTS

5. Defendant ROBERT E. LEE is now and at all times pertinent hereto has been the principal of the Nathan Bishop Middle School, and as such is the administrator of said school. Defendant ROBERT E. LEE is sued herein individually and in his official capacity.

6. Defendant THOMAS MEZZANOTTE is now and at all times pertinent hereto has been the principal of Classical High School, and as such is the administrator of said school. Defendant THOMAS MEZZANOTTE is sued herein individually and in his official capacity.

7. Defendant JOSEPH ALMAGNO is now and at all times pertinent hereto has been the superintendent of the Providence public schools, including but not limited to the Nathan Bishop Middle

School and Classical High School, and as such is responsible for the overall administration of the Providence public schools and of the policies of the Providence School Committee. Defendant JOSEPH ALMAGNO is sued herein individually and in his official capacity.

8. Defendants VINCENT McWILLIAMS, ROBERT DeROBBIO, MARY BATASTINI, ALBERT LEPORE, ROOSEVELT BENTON, MARY SMITH, ANTHONY CAPRIO, BRUCE SUNDLUN, and ROBERTO GONZALEZ are now and at all times pertinent hereto have been members of the Providence School Committee and as such are responsible for the policies and operation of the Providence public schools, including but not limited to the Nathan Bishop Middle School and Classical High School. Defendants VINCENT McWILLIAMS, ROBERT DeROBBIO, MARY BATASTINI, ALBERT LEPORE, ROOSEVELT BENTON, MARY SMITH, ANTHONY CAPRIO, BRUCE SUNDLUN, and ROBERTO GONZALEZ are sued herein individually and in their official capacity.

9. Defendants herein have at all times pertinent hereto been acting under color of state law.

III. STATEMENT OF FACTS

10. The Providence School Department, acting as an agency of the City of Providence and the State of Rhode Island, under the authority and control of the Defendant members of the Providence School Committee are now and at all times pertinent hereto owners of the public schools located in the City of Providence and of all equipment located therein.

11. The Defendant members of the Providence School Com-

mittee and Superintendent of Schools sponsor, each year in the month of June, graduation ceremonies for the middle schools and high schools operated as public schools in the City of Providence.

12. The Defendant members of the Providence School Committee and the Superintendent of Schools allow, permit, authorize and/or direct, as part of their official policy, the various public schools in the City of Providence to include in their respective graduation ceremonies, invocations and benedictions in the form of prayer.

13. By information and belief, in accordance with the official policy of the Defendant members of the Providence School Committee and the Superintendent of Schools, some but not all of the public middle schools and high schools located in the City of Providence have included and continue to include invocations and benedictions in the form of prayer in their graduation ceremonies.

14. The graduation ceremony for the eighth grade class of the Nathan Bishop Middle School, which class included Deborah Weisman, was held on the morning of June 20, 1989, on school grounds.

15. The graduation ceremony of the Nathan Bishop Middle School included an invocation and benediction in the form of prayer, performed by a Jewish rabbi.

16. By information and belief, the graduation ceremony of Classical High School, also held in June, 1989, on school grounds, likewise included an invocation and benediction in the form of

prayer.

17. By information and belief, it is the policy and practice of Defendants to include an invocation and benediction in the form of prayer in the graduation ceremonies which take place each year at Classical High School.

18. By information and belief, graduating eighth grade students were expected to attend the graduation ceremony at Nathan Bishop Middle School.

19. Parents and friends of graduating eighth students of Nathan Bishop Middle School, and graduating twelfth grade students of Classical High School, are invited to attend the schools' graduation ceremonies.

20. Plaintiff DANIEL WEISMAN is opposed to and offended by the inclusion of prayer in the public school graduation ceremony of his child both at the middle school and the high school level.

21. Municipal and state tax funds are used to operate and maintain the Providence public schools and to fund their graduation ceremonies.

22. Plaintiff DANIEL WEISMAN is opposed to the expenditure of his tax funds for school ceremonies which include prayer.

23. Plaintiff has no adequate remedy at law and he and his child will suffer irreparable harm by the policy of Defendants to allow and/or authorize the inclusion of prayer in the Providence public school graduation ceremonies.

24. Defendants will not be harmed by the issuance of an

injunction preventing the inclusion of prayer in the Providence public school graduation ceremonies.

25. Plaintiff DANIEL WEISMAN is likely to succeed on the merits of his complaint, as is set forth more fully herein, and in the accompanying memorandum.

IV. FIRST CAUSE OF ACTION

26. Plaintiff DANIEL WEISMAN hereby incorporates paragraphs 1 through 25 above and for his first cause of action allege that the inclusion of prayer in the graduation ceremonies of the Providence public schools violates the Establishment Clause of the First and Fourteenth Amendments of the United States Constitution.

V. SECOND CAUSE OF ACTION

27. Plaintiff DANIEL WEISMAN hereby incorporates paragraphs 1 through 25 above and for his second cause of action allege that the inclusion of prayer in the graduation ceremonies of the Providence public schools violates Article 1, §3 of the Rhode Island Constitution.

WHEREFORE, Plaintiff DANIEL WEISMAN prays:

1. For a declaratory judgment that the inclusion of prayer in the Providence public school graduation ceremonies violates the Establishment Clause of the First and Fourteenth Amendments of the United States Constitution, as well as Article 1, §3 of the Rhode Island Constitution.

2. For a temporary and permanent injunction forbidding Defendants and all persons acting under or through them to autho-

size or allow the inclusion of prayer in the Providence public school graduation ceremonies.

3. For reasonable attorney's fees and costs for the prosecution of the within action.

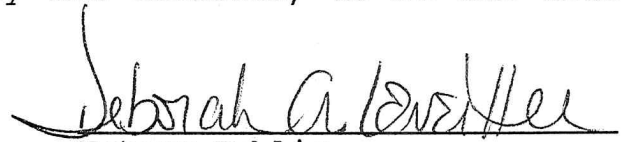
4. For such other and further relief as this Court deems just and proper.

I, DANIEL WEISMAN, first being duly sworn, on oath, depose and say that I have read the foregoing complaint and that it is true to the best of my knowledge and belief.

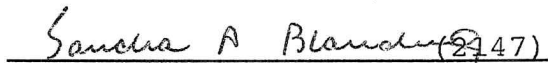

DANIEL WEISMAN

STATE OF RHODE ISLAND
COUNTY OF KENT

In Warwick, on the 28th day of July, 1989, before me personally appeared DANIEL WEISMAN, to me known and known by me to be the party executing the foregoing instrument and he acknowledged said instrument by him executed, to be his free act and deed.


Notary Public
My commission expires: 6/30/91

Plaintiffs
By his Attorneys


Sandra A. Blanding, Esquire
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Warwick, RI 02886
(401) 822-2900

DATED: August 23, 1989

SANDRA A. BLANDING IS DESIGNATED AS TRIAL COUNSEL. (WEIS.CMP)