

FREEDOM FROM RELIGION *foundation*

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June 29, 2018

SENT VIA EMAIL & U.S. MAIL:

wayman.gary@waldronsd.org

Gary Wayman, Superintendent
Waldron Public Schools
1560 West 6th Street
Waldron, AR 72958

Re: Unconstitutional Endorsement of Religion at Football Camps

Dear Superintendent Wayman:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation that recently occurred in Waldron Public Schools. FFRF is a national nonprofit organization with 33,000 members across the country, including members in Arkansas. FFRF's purposes are to protect the constitutional separation between state and church, and to educate the public on matters relating to nontheism.

It is our understanding that the Waldron High School football team recently both attended and hosted "team camps" that were rife with Christian evangelism:

1. We understand that on June 5, 2018, the team and their coaches attended a camp at Hackett High School. At this camp, Waldron's players were subjected to religious "testimony" by evangelist Tyson Simon, an area representative for the Western Arkansas Fellowship of Christian Athletes. According to the Resident Press, "Hackett was the destination, Simon was the vehicle, and God was definitely the Focus, the message, and the reason."¹
2. We understand that on June 13, 2018, the team and their coaches hosted their own camp at Bulldog Stadium. At this camp, players were subjected to Christian proselytizing by evangelist Konnor McKay. McKay is the Lead Evangelist at Konnor McKay Ministries and Lead Pastor at Waldron Pentecostal Church of God. According to the Resident Press, "McKay followed up on an invite from new Waldron Head Coach, Jonathan Bates to speak to the many teams that descended upon Bulldog stadium to inspire and impact the lives of the youthful footballers, coaches, and attendees."² In a Facebook post, McKay stated that he "had the honor of sharing the word of God with several high school football teams...including Mansfield, Danville, Lavaca, Hackett, and Waldron." Please see the enclosed images.

¹ *Simon Inspires Hackett Team Camp*, RESIDENT PRESS, June 9, 2018. <https://residentpress.com/simon-inspires-hackett-team-camp/>

² *McKay Speaks FAITHful Message*, RESIDENT PRESS, June 14, 2018. <https://residentpress.com/mckay-speaks-faithful-message/>

We write to request that the District not allow its football program to be used as a captive audience for evangelists.

It is a fundamental principle of Establishment Clause that public schools may not advance, prefer, or promote religion. *See generally Lee v. Weisman*, 505 U.S. 577 (1992); *Wallace v. Jaffree*, 472 U.S. 38 (1985); *Epperson v. Arkansas*, 393 U.S. 97 (1967); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421 (1962). Moreover, “the preservation and transmission of religious beliefs and worship is a responsibility and a choice committed to the private sphere.” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 310 (2000) (quoting *Lee*, 505 U.S. at 589).

Coach Bates abridged this constitutional duty by taking his team to the Hackett camp and bringing in an evangelist to preach to players at his own camp. It is unconstitutional for public school employees to participate in religious activities with their students while acting in their official capacities. *See, e.g., Bd. of Educ. of the Westside Cmty. Sch. v. Mergens*, 496 U.S. 226, 253 (1990) (finding that public school faculty may only be at student-led religious meetings in a “nonparticipatory capacity”). Federal courts have held that even a public school coach’s silent participation in student-led prayer circles is unconstitutional. *See, e.g., Borden v. Sch. Dist. of the Twp. of East Brunswick*, 523 F.3d 153 (3d Cir. 2008), *cert. denied*, 129 S.Ct. 1524 (2009) (declaring the coach’s organization, participation and leading of prayers before football games unconstitutional); *Doe v. Duncanville Indep. Sch. Dist.*, 70 F.3d 402 (5th Cir. 1995) (holding a basketball coach’s participation in student prayer circles an unconstitutional endorsement of religion).

Requiring or even encouraging players to attend these camp sends a message approving of Christian evangelism—any player would reasonably conclude that the proselytizing they experience at the camps has been “stamped with [the] school’s seal of approval.” *Id.* at 307. This “[s]chool sponsorship of a religious message is impermissible because it sends the ancillary message to . . . nonadherents ‘that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.’” *Id.* at 309–10 (quoting *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O’Connor, J., concurring)).

Coach Bates conduct is particularly problematic given the pressure that players feel to conform to their coaches’ expectations, so as not to lose their favor and affect their playing time. *See Borden*, 523 F.3d at 183 (“[T]he government may no more use social pressure to enforce orthodoxy than it may use more direct means.”) (quoting *Santa Fe*, 530 U.S. at 312). Students should not have to choose between participating in school-sponsored programs and violating their conscience. *See Borden*, 523 F.3d at 183 (“Any player who held opposing beliefs should not have had to ‘go along to get along’ by silently participating in religious observances he disagreed with.”). This coercive practice alienates the 46% of Americans born after 1987 who are not Christian.³

Please note that it is irrelevant whether participation in either camp was optional. Federal courts have summarily rejected arguments that “voluntariness” excuses a constitutional

³ Robert P. Jones & Daniel Cox, *America’s Changing Religious Identity*, PUBLIC RELIGION RESEARCH INSTITUTE (Sept. 6, 2017), available at www.prrri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf.

violation. *See generally Schempp*, 374 U.S. at 288 (Brennan, J., concurring) (“This, the short, and to me sufficient, answer is that the availability of excusal or exemption simply has no relevance to the establishment question...”); *Jager v. Douglas Cty. Sch. Dist.*, 862 F.2d 825, 832 (11th Cir. 1989), *cert. denied*, 490 U.S. 1090 (1989) (“...whether the complaining individual’s presence was voluntary is not relevant to the Establishment Clause analysis... The Establishment Clause focuses on the constitutionality of the state action, not on the choices made by the complaining individual.”).

Please inform us in writing of the steps the District will take to ensure that its athletic programs will not be used to promote religion in the future. Thank you for your time and attention to this matter.

Very truly yours,



Colin E. McNamara, Esq.
Robert G. Ingersoll Legal Fellow
Freedom From Religion Foundation

CEM:jbm

Enclosures



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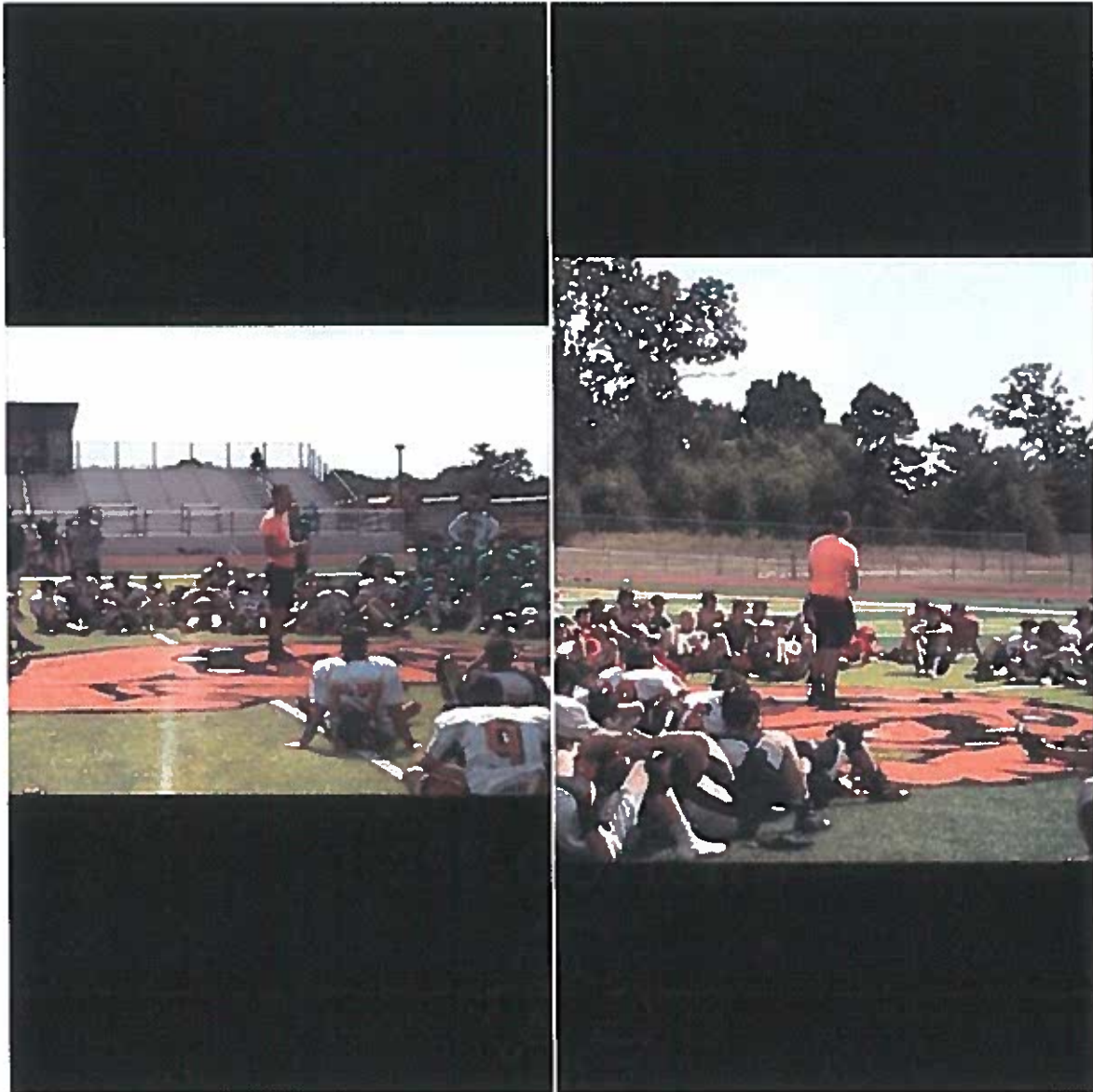


Konnor McKay

June 13 at 5:30 PM · 🌐



Today, I had the honor of sharing the word of God with several high school football teams from around our area including, Mansfield, Danville, Lavaca, Hackett, and Waldron! I am so appreciative of this opportunity from coach Johnathon Bates, and I pray something I said would impact their lives! I prayed God would bless it so I know he did! What an awesome awesome honor it is to serve God! We as a community should jump on board with Coach Bates and his coaching staff and support this program on the rise!



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💬 Comment

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Konnor McKay shared a post.



June 15 at 12:38 PM · 🌐

It was such an honor to share with these football teams this last week, God has just truly blessed me, resident press. Thank you so much for your kind words, I am humbled, honored, and GRATEFUL for all God has given me the opportunity to do. This article came a surprise, and brought tears to my eyes. Jesus, use me!



Resident Press

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June 14 at 11:30 AM · 🌐

Konnor McKay brought humility, passion, and a powerful message to a football field in Waldron on Wednesday. Thank you, Konnor for all you do for our communities...

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RESIDENTPRESS.COM

McKay Speaks FAITHful Message

Konnor McKay. You've heard the name, and you probably know the...

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Tyson Simon

June 5

3D Coaching! Thank you Coach Lonnie Hester for allowing me to share today.

Like Comment Share

33



George Crumbly Cool

Like Reply 3w



Lonnie Hester Thank You!

Like Reply 3w



"Why did God give you your talents? To help you serve others." – Tyson Simon