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Supreme Court strikes down school
created for religious community

By Larry Chesser

WASHINGTON (ABP) – New York lawmakers crossed the line separating church and state when they established a special public school district for a religious community, the U.S. Supreme Court ruled June 27.

The 6-3 ruling struck down the school district formed to provide special education for students in the village of Kiryas Joel, whose 8,500 inhabitants are members of the Satmar Hasidic Jewish sect.

Most of the village's children attend private Hasidic schools. The disputed public school district resulted from the need to provide special-education services for the community's handicapped children.

In 1985 the Supreme Court ruled that tax-supported special education could not be provided on religious school campuses. The special-needs children began attending classes in the nearby Monroe-Woodbury public school system. But the experience was traumatizing, the Hasidic parents said, because the children were accustomed to the insular lifestyle of the Hasidic village, where distinctive dress is worn, Yiddish is the primary language, and media exposure to the outside world

is shunned.

To solve the problem, New York created the special district encompassing Kiryas Joel.

The Supreme Court said New York could have provided special education in a number of permissible ways but not the way it chose.

Six justices agreed June 27 that the district violated the church-state separation required by the First Amendment but did not agree about why.

The majority opinion written by Justice David Souter said the action of the New York legislature allocated political power on a religious basis and did not ensure governmental impartiality toward religion. The First Amendment bars government from enacting laws that either establish religion or prohibit its free exercise.

"A proper respect for both the free-exercise and the establishment clauses compels the state to pursue a course of 'neutrality' toward religion, ... favoring neither one religion over others nor religious adherents collectively over non-adherents," Souter wrote, citing past court rulings.

Souter said the New York legislature had crossed the line from permissible accommodation of religion to impermissible establishment of religion.

The Constitution permits states to accommodate religious needs by lifting special burdens but "accommodation is not a principle without limits," Souter wrote.

The Supreme Court, he wrote, has "never hinted that an otherwise unconstitutional delegation of political power to a religious group could be saved as a religious accommodation."

The new school district, Souter said, was defined by a religious test, "resulting in a purposeful and forbidden 'fusion of governmental and religious functions.'"

Souter's opinion was joined by Justices Harry Blackmun, John Paul Stevens and Ruth Bader Ginsburg, and in most parts by Justice Sandra Day O'Connor.

Justice Anthony Kennedy wrote separately to say he would invalidate the district solely because "New York created it by drawing political boundaries on the basis of religion."

Three dissenting justices – Chief Justice William Rehnquist along with Justices Antonin Scalia and Clarence Thomas – would have upheld the school district.

Writing for the three, Scalia said the nation's founders would be astonished to see the establishment clause employed to prohibit accommodation of religion.

"I, however, am not surprised," Scalia wrote. "Once this court has abandoned text and history as guides, nothing prevents it from calling religious toleration the establishment of religion."

Of the six justices who ruled with Souter against the district, three also participated in concurring opinions.

Justice Stevens, joined by Blackmun and Ginsburg, wrote that by creating "a school district that is specifically intended to shield children from contact with others who have 'different ways,' the state provided official support to cement the attachment of young adherents to a particular faith."

Noting that two-thirds of the new district's full-time students are Hasidic students from outside Kiryas Joel, Stevens said the new district "thus serves a population far wider than the village – one defined less by geography than by religion."

O'Connor joined most of Souter's opinion "because I think this law, rather than being a general accommodation, singles out a particular religious group for favorable treatment."

O'Connor also addressed the "Lemon test," a controversial three-part legal standard used by the court to assess when government violates church-state separation. Lemon requires government actions to have a secular purpose, neither advance nor inhibit religion and avoid excessive

entanglement with religion.

Because lawyers for the school district had asked the high court to reconsider Lemon, the court's acceptance of this case fueled speculation that justices might redraw the line separating church and state.

But the ruling's impact on Lemon is disputed, even among members of the court.

O'Connor wrote that the court should move beyond seeing Lemon as a "single test, a Grand Unified Theory" to judge all establishment-clause disputes.

Noting that the majority opinion did not focus on Lemon's three-part test, O'Connor said, "the slide away from Lemon's unitary approach is well underway."

Scalia said, "The court's snub of Lemon today ... is particularly noteworthy because all three courts below (who are not free to ignore Supreme Court precedent at will) relied on it."

Blackmun, however, wrote separately "only to note my disagreement with any suggestion that today's decision signals a departure from the principles described in Lemon vs. Kurtzman."

Blackmun noted that the decision relied on past decisions "that explicitly rested on the criteria set forth in Lemon."

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Baptists react to decision
on Hasidic school district

By Larry Chesscr

WASHINGTON (ABP) -- Two Baptist organizations that took different sides in a dispute over whether New York could create a special public school district for a Hasidic Jewish community also took different views of the U.S. Supreme Court's ruling in the case.

A 6-3 Supreme Court majority ruled June 27 that New York's establishment of a public school district to provide special education for students in the all-Hasidic village of Kiryas Joel violated the church-state separation required by the First Amendment.

The court majority said the creation of the district encompassing Kiryas Joel crossed the line from permissible accommodation of religion to impermissible establishment of religion.

"The 6-3 decision is a victory for religious liberty and its essential shield, the separation of church and state," said James Dunn, executive director of the Baptist Joint Committee.

Dunn's agency had joined other religious and civil-liberties groups in asking the court to maintain its stance requiring governmental neutrality toward religion and to reject appeals to abandon the neutrality embodied in its long-held but controversial Lemon test.

"It is a ringing reaffirmation of the principle that government cannot favor one religion over another religion or religion over irreligion," Dunn said.

"The basic elements of the Lemon test stand," said Dunn, referring to the traditional Supreme Court test that requires government actions to have a secular purpose, neither advance nor inhibit religion and avoid excessive entanglement with religion.

Michael Whitehead, general counsel of the Southern Baptist Christian Life Commission, disagreed with the high court's ruling.

If Kiryas Joel residents "had shared a commitment to golf instead of to God, the separate district probably would have been upheld," he said.

The CLC, he said, had asked the court for "benevolent neutrality" toward religion.

"This decision is not neutral," he said. "It is hostile to religion. Because these citizens take their religion seriously and openly, they lost a government benefit that is generally available to non-religious communities."

However, BJC General Counsel Brent Walker said the court's ruling, in his view, supports neutrality.

"Giving a religious group its own public school district to run is hardly neutral," he said. "Enforcing the establishment clause here is not hostile, particularly since the village's students can be accommodated in constitutionally permissible ways."

The courts' decision to review this case prompted speculation that justices might use it to reconsider Lemon and redefine the wall separating church and state. But the high court did not specifically address Kiryas Joel's request to reconsider Lemon.

In a friend-of-the-court brief, the CLC asked the high court to replace Lemon. The CLC brief urged the court "to clear up the mixed signals it has been sending at the intersection of church and state," Whitehead said.

Instead, he said, the court is "flashing garbled signals, certain to cause more collisions and more litigation by puzzled parents and school officials."

Noting that the majority opinion "scarcely cites Lemon" and that justices disagreed about whether it was applied, Whitehead said, "The resulting confusion reaches the same result as Lemon, so Lemonistas will celebrate and take credit all the same."

While Lemon was not directly applied in the majority opinion, Walker noted that Justice David Souter based his reasoning on a previous case that relied on Lemon.

"But Lemon is only a guide, not a magic formula," Walker said. "I'm more interested in enforcing the neutrality principle embodied in Lemon than insisting upon Lemon being cited as specific precedent. By whatever name, the court came out right."

Walker said the BJC brief argued that the court did not have to use Lemon to decide the case.

"The school district was clearly unconstitutional under core establishment clause principles," he said. "Employing Lemon to decide this case would be like using a jeweler's scale to weigh a truckload of gravel."

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Religious groups exempt
from gay-rights measure

WASHINGTON (AP) — Legislation was introduced in Congress June 23 to prohibit workplace discrimination based on sexual orientation, but the bills exempt religious organizations.

The Employment Non-Discrimination Act of 1994 was introduced June 23 in both houses of Congress. The bill's exemption covers religious corporations, associations, societies and educational institutions. Taxable, for-profit activities are the only activities not covered by the religious exemption.

Sen. Ted Kennedy, D-Mass., said he introduced the bill (S. 2238) as a step forward in the civil-rights movement that began 30 years ago. He heralded the bill as "another milestone in the civil-rights march of our time."

"This bill is not about granting special rights; it is about righting senseless wrongs," he added. Rep. Gerry Studds, D-Mass., introduced the House bill (H.R. 4636).

At a press conference, civil-rights activist Coretta Scott King lent her support to the legislation. The widow of Martin Luther King Jr. said she supports the bill "because I believe that freedom and justice cannot be parceled out in pieces to suit political convenience. ... I see this bill as a step forward for freedom and human rights in our country and a logical extension of the Bill of Rights and the civil-rights reforms of the 1950s and 1960s."

Brent Walker, general counsel of the Baptist Joint Committee, said the BJC will take no position on the merits of this bill. "Civil rights is not a part of our agenda," Walker said. "We will be involved to make sure the exemption for religious organizations stays in the bill as it moves through Congress.

"It's important that religious organizations that think homosexuality is a sin be exempted from having to comply with this law," Walker said.

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- By Pam Parry

House approves measure to prevent
EEOC from implementing guidelines

WASHINGTON (ABP) - The U.S. House of Representatives overwhelmingly approved June 27 a measure that would prevent the Equal Employment Opportunity Commission from implementing proposed guidelines on religious harassment in the workplace.

But the move has little practical value, according to a church-state specialist.

Brent Walker, general counsel of the Baptist Joint Committee, said the measure is "more a statement of principle than anything else. As a practical matter, the EEOC has no intention of promulgating the original guidelines. They will be changed to some extent."

The amendment, offered by Reps. Charles Taylor, R-N.C., and Frank Wolf, R-Va., was attached to a spending bill and stipulates that none of the funds available in the bill may be used to implement the guidelines as proposed. Those guidelines are in the process of being changed so the amendment really accomplishes nothing, Walker said.

"We continue to believe the religion guidelines should be improved but not removed," he said.

The House approved the amendment by a 366-to-37 vote.

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- By Pam Parry

Clinton hears from professors,
church-state attorneys on RFRA

WASHINGTON – Proponents of the Religious Freedom Restoration Act met June 22 with high-level Clinton administration officials to pursue a strategy for applying the 1993 law's enhanced protections for religious practice.

The Justice Department sparked an outcry from religious groups after it told a federal appeals court in April that a Minnesota church should not be allowed to keep tithes contributed by a couple headed for bankruptcy.

The appeals court is reviewing a district court decision ordering Crystal Evangelical Free Church to turn over to a bankruptcy trustee \$13,450 donated by Bruce and Nancy Young during the 12 months before they filed bankruptcy.

Particularly troubling to religious groups was the administration argument that recovering the funds from the church does not violate RFRA, which requires government to show a compelling reason before it can restrict religious practice. By arguing that creditors could recover money given to a church – while bankruptcy laws shield money wasted on gambling, liquor or pricey vacations – the administration position minimized the effectiveness of RFRA, the religious groups said.

Steve McFarland, director of the Christian Legal Society's Center for Law and Religious Freedom, said White House officials asked him to bring together a group of church-state specialists to "help the Justice Department put together a long-range policy for application of RFRA."

McFarland's organization led a coalition of religious groups siding with the church in the bankruptcy case.

Attending the meeting were three prominent law school professors who helped craft RFRA -- Douglas Laycock of the University of Texas School of Law; Michael McConnell of the University of Chicago School of Law; and Edward Gaffney Jr., dean of Valparaiso School of Law.

Also attending were McFarland and two Baptist church-state attorneys, Brent Walker of the Baptist Joint Committee and Michael Whitehead of the Southern Baptist Christian Life Commission.

President Clinton and White House Counsel Lloyd Cutler made an unscheduled visit with the group. Others representing the administration in the meeting were Walter Dellinger, assistant attorney general; Joel Klein, deputy counsel to the president; and William Bryson, acting associate attorney general.

McFarland said the meeting opened "some important lines of communication between those of us who labored to pass the act (RFRA) and those who are employing it."

Walker said the meeting was set up to discuss the administration's involvement in the bankruptcy case and to urge the administration to "develop a policy of rigorous enforcement of the law (RFRA), even if it cuts across entrenched bureaucratic interests."

Both McFarland and Walker expressed appreciation that the administration listened to their concerns.

"They seemed very interested in exploring ways to get ahead on RFRA cases before they hit," Walker said. "They were also eager to think systematically about how best to respond to these issues."

McFarland said it remains to be seen whether the meeting "bears any fruit" or whether "the Justice Department changes its disastrous position" in the bankruptcy case.

"The fact that they requested the meeting and brought in high-level individuals to listen for an

hour and a half to substantive, hard issues gives me some slight degree of optimism," he said.

Walker said administration officials "did not agree to change their position" in that case, but they "at least listened intently and left open the possibility that they might reconsider."

Both McFarland and Walker said the Justice Department's position in the bankruptcy case is unreconcilable with Clinton's strong support of RFRA voiced when he signed the measure Nov. 16.

Clinton's support for RFRA was also recently underscored in letters to Southern Baptist officials as that denomination weighed its position on the Equal Employment Opportunity Commission's proposed guidelines on religious harassment in the workplace.

Walker said Clinton "engaged in substantive conversation" about free-exercise issues in the June 22 meeting.

"That the president of the United States took time to meet with us on these issues speaks volumes about where his heart is on religious-liberty issues," Walker said. "Now the administration needs to convert it into tangible policy."

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— Larry Chesser

Senate proposal would lift
advertising restrictions

WASHINGTON (ABP) — Third-class, non-profit publications will be able to accept advertising with no restrictions for at least one year if a Senate proposal becomes law.

Sen. Dennis DeConcini, D-Ariz., offered an amendment to the Treasury, Postal Service and General Government Appropriations bill (H.R. 4539) because he said it would ensure that non-profit groups can take advantage of advertising revenues to defray costs.

The Senate approved the measure June 22. The amendment stipulates that if no other legislation supersedes it by Sept. 30, 1995, it will remain law.

Previously, the issue became controversial when the U.S. Postal Service issued new guidelines stipulating that most advertising from third-class, non-profit publications would be eliminated, beginning Sept. 4.

Neal Denton, executive director of the Alliance of Nonprofit Mailers, said, "Chairman DeConcini's amendment makes whole again the carefully balanced ... legislation that the USPS has continually attempted to subvert through Draconian regulatory efforts. We are extremely appreciative of the Senate's action today, especially the diligence with which Chairman DeConcini has monitored the USPS's overreaching rulemaking efforts."

The House bill does not include the amendment, and a conference committee will have to iron out the differences.

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— By Pam Parry

Henry thanks Southern Baptists
for 'confidence' shown in election

ORLANDO, Fla. (ABP) – Jim Henry, elected president of the Southern Baptist Convention June 14, issued a statement two weeks later thanking Southern Baptists "for the confidence that they have shown in me."

"When I felt led of God to allow my name to be placed in nomination, I said I was going to trust the sovereign will of God and the desires of the (SBC) messengers," noted Henry, pastor of First Baptist Church in Orlando, Fla., host city for the recent convention meeting.

Henry's election surprised many people – including himself, he said – because he lacked the endorsement of the recent SBC presidents, a key factor in past elections.

The SBC presidency, because of its role in appointing powerful committees, has been the focal point in a 15-year struggle to control the direction of the 15 million-member denomination.

"I have not made any promises or appointments at this time," Henry said in his June 28 statement. "I am prayerfully asking God to guide me and I will consider all options."

Henry asked for prayer for himself and the other newly elected officers, and he thanked those who prayed for him and his family in the recent death of his father in Nashville, Tenn.

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Churches must offer choices
in 21st century, lecturer says

By Ken Camp

DALLAS (ABP) – Successful churches in the 21st century will offer a "diversity of choices" in discipleship and Bible study opportunities, according to author, pastor and lecturer Leith Anderson.

"Religious education needs to be biblical, and it needs to offer multiple opportunities for personal growth," said Anderson, author of "Dying for Change" and "A Church for the 21st Century."

Weekend seminars as well as protracted courses, weeknight Bible studies in addition to Sunday morning classes, and small "affinity groups" as well as age-graded departments are among the options that churches should consider, he said.

Anderson has served since 1977 as senior pastor of Wooddale Church in Eden Prairie, Minn., a suburban congregation affiliated with the Baptist General Conference. Wooddale Church has grown from 1,000 to 3,000 members and spawned at least a half-dozen other congregations during Anderson's tenure.

Anderson's advice is finding a hearing among Southern Baptists. He will be a featured speaker at the 1994 Texas Baptist Sunday School/Discipleship Training Convention Sept. 22-24 at Prestonwood Baptist Church in Dallas. And he will speak Oct. 10-11 in Atlanta at the Conference on Church Growth with Biblical Integrity, co-sponsored by the Baptist Center for Ethics and Dunwoody Baptist Church.

In the 21st century, discipleship will be "outcome-based" rather than "process-oriented," Anderson predicted. "We've tended to focus on the process – come to church, read your Bible, pray every day," he said.

"Discipleship that is outcome-based focuses on obeying what Christ commanded. It asks, 'What are the results?' It says, 'Disciples will believe and behave in the following ways.' It is able to be seen in the way they treat their neighbors and the way they live their lives."

Some adults will be discipled in small groups that coalesce around a shared interest, lifestyle or perceived need, he predicted.

The challenge, he acknowledged, is getting a group to move beyond its shared point of concern – whether it is parenting preschoolers, recovering from substance abuse, losing weight or whatever – into a program of ongoing Bible study.

"One thing churches can do is to train leaders to move Bible study into all their small group activities," Anderson said.

Beyond that, he suggested building on the relationships established in the initial small groups. Once trust in a leader is established and a bond is forged between group members, a small group could move from a special-interest class into a six-week study of one of the books of the New Testament, for example.

A healthy program of discipleship and religious education is able to assimilate new members into it easily, Anderson said. Unfortunately, most adult Sunday school classes tend to become socially closed groups after about 24 months, and newcomers have difficulty entering them, he said.

"The advantage of small groups is that they are easier to start," he said. At the same time, he acknowledged that Southern Baptists have been more successful than most denominations in stressing the importance of starting new Sunday school units.

The difficulty in charting a course for the next century, Anderson confessed, is that directions change so rapidly in modern society.

"For instance, recent polls by Barna and Gallup indicate that the small-group phenomenon may have peaked three years ago," he said. "It's amazing how rapidly things are changing. It makes it hard to guess what will be happening ten years out."

The key, according to Anderson, is being sensitive to shifting cultural paradigms and being willing to make necessary adaptations.

"With the rapid changes taking place in society, it is imperative that the church invest in its next generation of leaders," he said.

"They need to learn how to be flexible and to read the culture, not just know what always has been done in the past."

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Cornerstone network links churches,
agencies with Fort Worth's nccdy

By Ken Camp

FORT WORTH, Texas (ABP) – Mike Doyle had little sympathy for the down and out, until he became one.

"I was exactly opposite from the kind of person who would do anything benevolent," said Doyle, at the time a successful businessman in Fort Worth, Texas. "I figured people got what they deserved. If they were in trouble, they probably got themselves into the situation, and they could just

get themselves out of it."

But a series of financial setbacks and personal difficulties gave Doyle a new perspective. Today he directs Cornerstone Assistance Network, which each month helps an average of 5,000 needy residents of Fort Worth and Tarrant County get on their feet again.

Cornerstone helps the needy get access to essential goods and services through a network of 50 agencies and ministries and 80 churches, representing every major denomination in the Fort Worth area. The project originated as a community ministry of North Richland Hills Baptist Church in Fort Worth, where Doyle is a member. The congregation continues to provide the vast majority of its volunteer base and financial support.

"We don't care if the people receiving help know who Cornerstone is," said Doyle, Cornerstone's executive director. "What we want them to hear is that the Lord made it possible through His church."

Prior to his involvement with Cornerstone, Doyle operated a lucrative medical management firm, providing business management for physicians' offices. When he fell upon hard times, he said, he sensed God steering him in a new direction. "The Lord began to deal with me, and I followed the Lord's direction," he said.

Doyle met with his pastor at North Richland Hills, Phil Simmons, to discuss the possibility of their church starting a program to help needy people. He learned that Simmons had been given the same vision 15 years before and had longed for an opportunity to launch such a ministry.

After two years of study and planning by committees at North Richland Hills, Cornerstone was chartered in February 1992. And while Doyle initially resisted the call, he accepted the position of executive director two months later.

In 1993, its first full year of operation, Cornerstone Assistance Network provided ministry to 64,587 people. Along with the material help, those people heard a spiritual message: "This is God's provision for you. He loves you."

The role of churches in the project is critical, Doyle said.

"If the community is going to change, the church will have to do it," he said. "Man's methods are not working. We have to use God's method."

Texas Baptists support Cornerstone through their gifts to the state convention's annual mission offering.

Cornerstone includes four components: a community center northeast of downtown Fort Worth, case management with individuals and families, surplus ministries, and transitional housing.

The community center, provided by Tarrant Baptist Association, is a two-story building in an often violent neighborhood. Its exterior frequently is painted with gang-related graffiti. Eleven automatic weapons were confiscated from one home just a block from the center.

Cornerstone Community Center maintains a clothes closet for people in need and an emergency food pantry built and stocked by Royal Ambassadors and Acteens at North Richland Hills Baptist Church. The center also is home to a bilingual women's Bible study that attracts about 40 participants each week, after-school and summer programs for children, as well as adult literacy, sewing, quilting and nutrition classes.

While the center offers emergency help, Cornerstone seeks to make a lasting difference in lives through case management, teaching individuals how to get and hold down jobs, and teaching families how to make budgets and live within their means.

"Our goal is for clients to become completely debt-free and to understand what we believe the

Lord says about tithing," Doyle said. "But we will not allow them to tithe to us. That needs to go to their local church."

While one-on-one case management probably is the greatest genuine need, Doyle said the greatest perceived need is for surplus goods. To manage that aspect of the ministry, Cornerstone operates a 20,000-square-foot warehouse stocked with donated clothing, paper supplies, appliances, toiletries and virtually every other household item.

"Cornerstone Surplus Ministries allows churches to distribute everything from forks to furniture to freezers. You name it, we've got it," Doyle said. While needy individuals come off the streets into the community center for food and clothing, only church representatives are permitted into the warehouse.

"We want churches to meet the needs of people," Doyle said. "We'll work with anybody who preaches the death, burial and resurrection of Jesus, who will provide goods without charging for them, and who will let folks know, 'This is God's provision for you. He loves you and wants to meet your needs through His people.'"

Working in partnership with social service agencies, city government and churches of every denomination is essential to meeting the pressing needs of hurting people, Doyle said. "One church couldn't meet all the physical and spiritual needs of all these people," he said. "It's a God-sized task only He can accomplish. The glory goes only to Him."

Cornerstone operates a transitional-housing ministry that includes a six-unit apartment building. Tony Tyes, a former gang member from California and one-time Black Muslim turned born again Christian, works as resident manager for Cornerstone Transitional Housing.

Tyes talks regularly with children and teenagers in the neighborhood, sharing the gospel with them in a language they understand.

Homeless families are allowed to live in the transitional housing for up to two years if they agree to live by Cornerstone's rules. No drugs or alcohol are permitted. Church attendance is encouraged. And families must be involved in a case management program.

"We ask churches to work with these families as case aides, serving in the role of friend and encourager, telling them, 'We love you. We know you can do it,'" Doyle explained.

"Cornerstone, in turn, provides the case managers. We play the heavies, keeping their feet to the fire, checking their receipts and holding them accountable."

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Richard Jackson to fill
interim for Midland church

MIDLAND, Texas (ABP) – Richard Jackson, former pastor of North Phoenix (Ariz.) Baptist Church, will serve as interim pastor for the 4,500-member First Baptist Church in Midland, Texas, beginning July 3.

A popular preacher and unsuccessful candidate for Southern Baptist Convention president, Jackson retired from the active pastorate in 1993 after 25 years at the North Phoenix church. He currently is president of the Richard Jackson Center for Evangelism and Encouragement in Phoenix.

However, he is in the process of moving his ministry and family to Texas.

The ministry will be housed at Howard Payne University in Brownwood. He and his family are expected to live in Granbury, about 80 miles away.

Jackson will travel to Midland, 250 miles away, on weekends, according to church officials. Jackson could not be reached for comment.

James Denison, former pastor at the Midland church, became pastor of Second Ponce de Leon Baptist Church in Atlanta June 26.

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-- By Greg Warner

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