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**Appeals court upholds
school-prayer policy**

By Bob Allen

JACKSONVILLE, Fla. (ABP) -- A federal appeals court has ruled in favor of a Florida school district's policy of permitting student-led prayers at high school graduations.

The 11th U.S. Circuit Court of Appeals ruled by a 10-2 margin that a policy allowing "student messages" that may or may not include a prayer does not violate the separation of church and state.

Previously, a three-judge panel of the appellate court ruled the prayer messages illegal. The full court intervened on behalf of the Duval County School Board in Jacksonville, Fla., by granting a hearing and setting aside the panel's decision pending a final ruling, which the court issued March 15.

The policy, enacted by a former superintendent after the school district's long tradition of graduation prayers was declared unconstitutional in 1992, lets each senior class decide whether or not to include a two-minute opening or closing message and select the student to give it. School officials may not regulate the content of the student messages, which can be on any topic the student chooses.

A group of parents and students charged the policy was a sham effort to circumvent the U.S. Supreme Court's ban on graduation prayers and that it violated the Establishment Clause of the First Amendment in the U.S. Constitution.

The appeals court rejected those claims, however, upholding a district court's decision that the policy is constitutional.

"Simply put, the selection of a graduation speaker by a secular criterion (not controlled by the state) to deliver a message (not restricted in content by the state) does not violate the Establishment Clause merely because an autonomous student speaker may choose to deliver a religious message," the appeals court said in a majority opinion written by Circuit Judge Stanley Marcus.

The families that sued the school board were expected to appeal the ruling to the Supreme Court.

The appeals court analyzed the prayer policy in light of two previous Supreme Court rulings on the issue.

In *Lee vs. Weisman*, the Supreme Court banned school officials from ordaining and directing the performance of graduation prayers led by an outside clergyman.

Unlike that case, the appeals court said: "No feature of the Duval County policy favors or endorses religion. The graduation policy is simply content-neutral, and allows an autonomous elected speaker, selected by her class, to deliver a religious or secular message on an equal basis."

The second case, *Lemon vs. Kurtzman*, established a three-prong test for resolving disputes involving the Establishment Clause. To be constitutional, the justices said, laws must have a "secular purpose," they must "have a primary effect that neither advances or inhibits religion," and they cannot foster "excessive entanglement" with government.

The 11th Circuit said the Florida school policy has three secular purposes of allowing students to direct their own graduations, of solemnizing the event and of permitting student freedom of expression.

The policy does not have a primary effect of advancing religion, the court said, because it allows a student to give a message on any subject. It does not excessively entangle church and state, the opinion continued, because school officials do not monitor or censor the student messages.

In a dissenting opinion, however, two judges disagreed with the majority's interpretation at almost every point.

While the Duval County policy distances school officials from direct involvement in establishing prayers, it does not disconnect them entirely from religious expression, according to Senior Circuit Judge Phyllis Kravitch. "Nor does the policy mitigate the influences that coerce audience members to participate in prayers offered at graduation," Kravitch continued, joined in dissent by Circuit Judge Rosemary Barkett.

The policy fails the so-called "Lemon Test," the dissenting judges continued, "because its only credible purpose is to maximize the chance that prayer will continue to play a prominent role in Duval County graduations."

Further, they said, the policy's primary intent is to advance religion. "The policy communicates an endorsement of religion both because it leads to more religious expression in the opening and closing messages than all other types of speech, and because its purpose is apparent to any reasonable observer aware of its terms, the graduation traditions in Duval County, and the events leading to the policy's creation.

"Invoking the ideals of free student expression and referencing the public forum doctrine do not cleanse the Duval County policy of its constitutional defects. Allowing a student majority to do what the school administration could not offend our constitutional scheme of individual rights. Nor does the policy promote free expression or render the graduation ceremony equally available for any sort of speech -- not when it allows for only one speaker, and a speaker chosen by majority vote at that."

Rick Mullaney, the city of Jacksonville's general counsel who represented the school board at an October hearing in Atlanta, welcomed the decision. "This ruling is an important victory for the school board and the community," he said in comments quoted in the *Florida Times-Union*. "Duval County is not saying there must be prayer. The policy does not require it, it just does not prohibit it."

An official at Americans United for the Separation of Church and State, which filed a brief in the case opposing school prayer, condemned the decision.

"Public school events must remain religiously neutral to protect the rights of everyone," said Barry Lynn, executive director of the religious-liberty watchdog group based in Washington. "Students should not be coerced to pray at a public school event even if a majority of students votes to do so."

"If students want to pray at graduation, that's up to them," said Lynn, a Baptist minister. "This isn't about stopping anyone from praying, it's about making sure that everyone feels welcome at public events."

"This ruling allows the state to promote the prayer of the majority at an official public school event, while telling the minority, 'too bad,'" Lynn concluded. "At its core, that amounts to state-sponsored tyranny of the majority. If that isn't in conflict with the First Amendment, I don't know what is."

Judge strikes down Florida voucher plan

JACKSONVILLE, Fla. (ABP) -- A state judge in Tallahassee ruled March 14 that Florida's new school-voucher program violates the state's constitution.

"Tax dollars may not be used to send the children of this state to private schools," Circuit Judge Ralph Smith Jr. said in his ruling.

Smith said the 53 students in Pensacola who were the first children to attend private schools in the program will lose their vouchers at the end of the year.

Gov. Jeb Bush, who made the voucher plan a centerpiece of his first year in office, vowed to appeal the decision. He called the ruling the "first inning of a long, drawn-out legal battle," according to news reports.

The Florida program had permitted students at schools considered to be failing to seek vouchers of up to \$3,389 to help pay for schooling at parochial or other private schools.

The judge said the program violates the Florida Constitution requirement that the state provide education to children through a "uniform, efficient, safe, secure and high-quality system of free public schools."

He did not consider concerns raised by many voucher opponents that providing tax dollars for students to attend sectarian schools would violate the separation of church and state.

Voucher opponents hailed the ruling. "Florida officials can't get around their constitutional duty to Florida's schoolchildren by passing the buck to private and religious schools," said Ralph Neas, president of People For the American Way Foundation, which is co-counsel in the case.

"Florida's residents have made it clear that they want an efficient, well-funded public school system," said Barry Lynn, executive director of Americans United for the Separation of Church and State.

All but four of the 53 students who left two public schools under the program enrolled in Catholic schools. "I'm very disappointed," said Sister Mary Caplice, superintendent of schools for the Catholic Diocese of Pensacola-Tallahassee. "We are going to go on educating the children as we have been doing. We have a strong commitment to the education of these children," she told the Florida Times-Union.

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-- By Bob Allen

Story 'broken' by Baptist Press previously reported, editor claims

By Mark Wingfield

DALLAS (ABP) -- A Baptist Press report claiming to have broken a story that articles of incorporation have been filed to reserve the name "Baptist Convention of the Americas" is inaccurate, according to the editor of the Baptist Standard.

A March 1 article in Baptist Press, official news service of the Southern Baptist Convention, suggests the filing of these articles of incorporation last fall had gone previously unreported.

However, the Texas Baptist newspaper reported the filing in an article written by Editor Marv Knox and published in the Nov. 24, 1999, issue. Associated Baptist Press carried the story nationwide the same week.

Knox's article reported comments by Baylor University Chancellor Herbert Reynolds, who was speaking to a group of "mainstream" leaders from state Baptist conventions gathered in Oklahoma City.

In that speech, Reynolds noted he had filed articles of incorporation to secure the name "Baptist Convention of the Americas." Knox included that fact in the body of his story.

Reynolds first proposed creation of a bi-continental convention during a speech to Texas Baptists Committed members in November 1998. He suggested Texas would be the natural center of such a convention, which could provide an alternative to existing national convention structures.

Moderate Baptists in Texas and beyond appeared to find the idea intriguing, but no others have yet stepped forward to publicly endorse the idea or call for its enactment.

Conservative Baptists, especially national leadership of the SBC and the new Southern Baptists of Texas Convention, have been highly critical of the proposal, however.

Spurred by these criticisms, frequent questions have been raised by Texas pastors and lay leaders about whether the Baptist General Convention of Texas will endorse Reynolds' idea and establish itself as a broader-based convention competing directly with the SBC.

New BGCT Executive Director Charles Wade, speaking last month to Texas Baptist directors of missions, discounted the notion. "It doesn't seem like a really good idea to me now," he said.

In addition to Reynolds, others listed as an initial board of directors for the non-profit corporation are John Baugh, a layman from Houston; Winfred Moore, former pastor of First Baptist Church of Amarillo; and Paul Powell, former Texas pastor and former president of the SBC Annuity Board.

Both Baugh and Powell told Baptist Press the fact that articles of incorporation have been filed should not be interpreted to mean Baptist Convention of the Americas will become a reality.

"There has been no move whatsoever to implement that possibility into reality," Baugh said.

Powell added the incorporation was filed only to preserve a name. "That's all it was. Nothing has ever gone beyond that initial step. No plans, no schemes, just that the name has been preserved."

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Baptists report division over retreat movement

By Bob Allen

JACKSONVILLE, Fla. (ABP) -- A Southern Baptist is marooned, alone, on a desert island. When he is rescued, the ship's captain finds three huts and asks what they are for. "This one is where I live," replies the hermit, "and the other one is where I go to church."

Commending the man's piety, the captain asks, "What's the third?"

"That's where I used to go to church."

The above is but one from a whole genre of jokes about Southern Baptists' dubious reputation for church splits over matters ranging from theological issues to the color of the carpet.

And while it's not a laughing matter, some are finding something new to disagree about.

The North American Mission Board of the Southern Baptist Convention issued an advisory last year urging caution about a number of weekend retreats known collectively as the "Cursillo" movement.

Cursillo is Spanish for "little course." It describes a three-day spiritual-renewal experience in a retreat setting. Originating in the Roman Catholic Church, the term now includes spin-off organizations sponsored by Methodists, Lutherans and interdenominational groups. Retreats carry names including "Tres Dias," "Camino," "Emmaus Walk" and the youth-focused "Chrysalis."

Participants describe the retreats, which often include people from various denominations, as a positive experience. Officials from the Alpharetta, Ga., -based NAMB, however, said reports about the movement becoming a divisive issue in Baptist congregations suggest a pattern.

Complaints include that participants often return from retreats with a charged-up spiritual attitude that comes across as elitist, that they are influenced by charismatic tendencies and that alumni are urged not to disclose details of the experience to others.

Tal Davis, who works for NAMB's interfaith-witness team, said his office has received a number of complaints from pastors and others about spiritual-renewal weekends during the last 10 years. He advised Southern Baptists to steer clear of the movement. "These weekend retreats often create more problems than they resolve," he said. "There are plenty of Southern Baptist programs than can provide solid discipleship ministries."

The secrecy element is particularly troubling for many Southern Baptists, because of their tradition of making decisions about faith and practice through democratic processes involving the entire congregation. "Anything that involves a measure of secrecy sends up a red flag," said Davis. "There's no need for anybody in a Christian church to keep anything secret. Everything should be out in the open."

Defenders of the retreats say that while it is often misunderstood, there is nothing insidious about the element of secrecy. The reason, they say, is that some events in the retreats are intended to come across as serendipity, and telling prospects about them would spoil the surprise.

"There are no secrets, just gifts of love that add to the joy, depth and meaning of the weekend," said Wilson Burton of Brentwood, Tenn., a member of the Church of Christ who sits on the interdenominational Tres Dias organization's international board.

Betty Marlin of Aurora, Mo., a planner for the Heartland Ecumenical Camino, said participants are warned against acting superior to fellow church members. "You come back overexuberant sometimes, and people accuse you of acting like you're better -- on a higher plane," she said.

Timothy Bonney, an American Baptist pastor from Rushville, Ind., defended The Walk to Emmaus, a retreat sponsored by the Upper Room prayer ministry associated with the United Methodist Church.

"The purpose of the Emmaus program is to lead people to a closer relationship with Christ and to encourage them to return to their church with a greater commitment to living out the Christian life in their local setting," Bonney wrote in a letter to the editor in the March issue of Baptists Today.

"Yes, most of the three-day movements are ecumenical," he continued. "However, this is a positive aspect of the weekends and not a negative. The Emmaus Walk focuses on the core of the gospel faith and not on denominational differences. The fellowship and cooperation of Christians from many backgrounds makes this program a joy to participate in."

Norman Woods of Shell Knob, Mo., meanwhile, has mixed feelings about the movement. He rates two weekends last year with the Heartland Ecumenical Camino in southwest Missouri as one of the "highs" of his spiritual life and his church's split over the issue as one of the "lows."

A number of members at First Baptist Church in Shell Knob, including Pastor Nick Arnold, were involved in Camino events during 1998 and 1999.

Then-deacon Frank Bennington said he and his wife were encouraged to attend a retreat, and he felt looked down on when he declined. "There's an insistence about it," he said. "The impression was, 'You need to go.'"

Eventually, church leaders "began to wonder what was going on," Bennington said.

Opponents became concerned about the secrecy and because retreat participants receive Communion, which Baptists typically view as an ordinance for the local church.

The issue came to a head in August, when a majority of deacons said the pastor and pro-Camino deacons should either take the matter to the whole church or drop out. While Arnold agreed, and apologized in October for ever attending a retreat, the damage was done.

Some members wanted to attend a Camino retreat, which requires approval from the pastor. It became an issue at the next deacon election, when members supported and opposed candidates based on their position on Camino.

Arnold narrowly survived a vote of confidence at a business meeting in November but decided to resign. Half of the church's 100 members left First Baptist to form a new church, Grace Community Fellowship, and called Arnold as interim pastor.

Arnold said dissension in the church was larger than the retreat issue, but in hindsight, "If I had known Camino was going to create this big a problem ... I never would have gotten involved in it."

"I wouldn't be one to criticize what I know of Camino," Arnold said. "I think it's doing a good work." His advice to any Baptist church whose members are considering going to a retreat, however, is, "The church needs to have the final say whether the pastor goes or not."

Woods said he enjoyed the retreat experience. "It's a very spiritual, uplifting weekend," he said. "You wallow in God's grace for the whole weekend, and you come home revived."

The church split, however, was painful for all concerned, he said. "That's something I hope I never go through again in my life."

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--Information for this story is compiled from Baptist Press, the Missouri Baptist newspaper Word and Way and the independent newspaper Baptists Today.

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