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**Federal court strikes down
Cleveland school-voucher plan**

By Bob Allen

CINCINNATI (ABP) -- A federal court has struck down Cleveland's school-voucher program, saying it violates the constitutionally mandated separation of church and state.

"This scheme involves the grant of state aid directly and predominantly to the coffers of the private, religious schools," Cincinnati's 6th Circuit U.S. Court of Appeals said in a ruling Dec. 11. "And it is unquestioned that these institutions incorporate religious concepts, motives and themes into all facets of their educational planning."

Americans United for the Separation of Church and State described the decision as "a monumental victory for religious freedom, public schools and church-state separation."

Others, however, said the ruling would prevent poor children from getting an education equal to their wealthy peers.

"This is not between church and state," Kathryn Harris, principal at Cleveland's St. Adalbert's School, told the Cleveland Plain Dealer. "Our parents are just looking for a school where they think their children can get the best education."

The ruling could set up a showdown before the U.S. Supreme Court, which has narrowed but not overturned a 1973 landmark ruling that vouchers are unconstitutional.

Should the Supreme Court agree to hear an appeal of the case, said Barry Lynn, executive director of Americans United, "This will be the most important case about public schools and church-state separation in decades."

Lower courts have issued mixed rulings on vouchers. Court battles over vouchers are pending in Florida, Ohio and Wisconsin. The Supreme Court has refused to review cases involving voucher programs in Milwaukee and Maine.

The Cleveland ruling is the latest in a series of setbacks for voucher proponents, who recently lost ballot initiatives in California and Michigan.

"It's clear that the public wants to invest in improving America's public schools, where 90 percent of children attend," said Bob Chase, president of the National Education Association. "Now is the time to focus on improving opportunity for all students rather than being engaged in divisive and counterproductive battles."

Cleveland's 5-year-old voucher program provides up to \$2,500 for low-income students to attend private schools. Out of 3,761 students in the program during the 1999-2000 year, 3,632 (96 percent) were enrolled in sectarian schools, according to a court document.

While those schools vary in religious affiliation and approaches, most believe in intertwining religious beliefs with secular subjects and require religious studies and participation in chapel services.

The appeals court concluded that the Ohio scholarship program "is designed in a manner calculated to attract religious institutions and chooses the beneficiaries by non-neutral criteria. That places it in "direct contravention" to earlier Supreme Court rulings, the opinion said.

The voucher plan survived a challenge in Ohio's Supreme Court, but plaintiffs took their case to federal courts.

Judges Eric Clay and Eugene Siler wrote an opinion for the 2-1 majority. Judge James Ryan dissented, calling it "unmistakably clear that the voucher program passes constitutional muster."

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BJC, others seek ruling on school building access

By Kenny Byrd

WASHINGTON (ABP) -- Nine religious organizations want the nation's highest court to send a clear signal that school districts may not bar religious groups from after-hours use of facilities that are otherwise open to community groups.

In a friend-of-the-court brief, the Baptist Joint Committee and eight other groups argue that denying access only to religious groups violates the First Amendment.

The religious groups want the U.S. Supreme Court to invalidate a New York school district's policy that barred the use of its facilities by individuals or organizations "for religious purposes."

The Good News Club, a nondenominational Christian youth group, challenged the policy when denied after-hours use of a facility in Milford, N.Y.

A trial court and the 2nd U.S. Circuit Court of Appeals sided with the school district, but the U.S. Supreme Court agreed in October to review the matter. The appeals court said the club's activities go beyond simply teaching moral values from a religious viewpoint and "fall clearly on the side of religious instruction and prayer."

In urging the high court to reverse the lower rulings, the religious groups argue that by singling out religious groups for adverse treatment, the policy violates their free-speech rights.

The constitutionally required separation of church and state neither requires nor justifies the exclusion of religious groups, the brief argues.

"This case ... is about private actors engaging in religious speech in a public forum after the school day at programs sponsored and run by a private community group," the brief states.

The religious groups further argue that permitting after-hours access for students with parental permission to attend the Good News Club would not create an impression of school sponsorship in the minds of elementary-school students.

"It defies common sense to conclude that, while young children might view a religious organization's use of public property as an endorsement from the state, they would not also perceive the organization's exclusion from that facility as state hostility toward religion," the brief states.

In addition, the brief argues that by singling out religion for inferior treatment without proving a compelling governmental interest, the policy violates the free exercise rights of the Good News Club.

Perhaps most troubling, the brief argues, is the policy's "requirement that state officials scrutinize proposed religious events to decide if they are 'merely' the presentation of a religious viewpoint or if they consist of forbidden religious instruction or worship." That process, the brief states, impermissibly entangles church and state.

"It's really important for religious groups who believe in the separation of church and state to tell the court that this practice does not violate that principle," said Brent Walker, executive director of the Baptist Joint Committee. "As long as access is provided after hours without school sponsorship, religious groups should not be discriminated against."

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Clinton stays execution pending fairness study

By Kenny Byrd

WASHINGTON (ABP) -- President Clinton has postponed what would be the first federal execution in 37 years pending a study of whether capital punishment is implemented fairly.

Clinton postponed until June 2001 the execution of Juan Raul Garza, an inmate on federal death row.

Clinton said the delay would give the Justice Department time to gather and analyze information about alleged racial and geographic disparities in the federal death-penalty system.

"I believe that the death penalty is appropriate for the most heinous crimes," Clinton said in a Dec. 7 statement staying the execution until a new president is in the White House.

"Whether one supports the death penalty or opposes it, there should be no question that the gravity and finality of the penalty demand that we be certain that when it is imposed, it is imposed fairly," he said.

This fall, the Department of Justice released the results of a statistical survey of the federal death penalty. It found that minority defendants and certain geographic districts are disproportionately represented in federal death-penalty prosecutions.

In light of those disparities, Clinton said broader review of statistics is needed.

"I am not satisfied that, given the uncertainty that exists, it is appropriate to go forward with an execution in a case that may implicate the very issues at the center of that uncertainty."

In news reports, religious leaders opposed to the death penalty praised Clinton's action as a good start.

"It's a good opening hymn, but it's not the sermon," Joseph Lowery, chairman of the Black Leadership Forum, said in the Associated Press. The forum had asked Clinton to declare a federal moratorium on the death penalty, citing "racial disparities that plague the administration of capital punishment across the land and, in particular, the gross racial disparities reflected in the federal death row population."

In another recent development involving capital punishment, the U.S. Supreme Court decided to hear a Texas death penalty case involving a man who is said to be mentally retarded.

Religious leaders will no doubt be split over the case.

In a recent phone interview with Associated Baptist Press, Richard Land, president of the Southern Baptist Ethics and Religious Liberty Commission, said the SBC ethics agency has yet to decide if it will weigh in on the case.

While Land said he did not know the specifics of the Texas case, he noted that "a lot of mentally challenged people clearly understand right from wrong." He said in order for someone to avoid the death penalty in his view, one would "have to be severely retarded to the point you didn't understand right from wrong or that you were killing someone."

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Texas church votes to sever ties with SBC

By Mark Wingfield

WACO, Texas (ABP) -- Lake Shore Baptist Church in Waco has become the third Texas Baptist church to sever ties with the Southern Baptist Convention in recent weeks.

The congregation voted 91-1 to amend its constitution to remove references to the SBC, said Pastor Brett Younger. The Dec. 6 vote followed four Wednesday evening discussions on Baptist heritage.

The Lake Shore vote took place on the same night Wilshire Baptist Church in Dallas voted to end its relationship with the SBC. In November, Seventh and James Baptist Church in Waco took similar action.

"We disagree with the SBC on the equality of women, the separation of church and state, the importance of social ministry and the need for ecumenical cooperation," Younger said.

He described the church as "open, accepting, loving and inclusive" and observed that, increasingly, "That isn't the way most people describe Southern Baptists."

The church will continue to identify with the Baptist General Convention of Texas, Waco Baptist Association, the Cooperative Baptist Fellowship and the Alliance of Baptists.

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AIDS czar, Clinton, religious leaders seek new initiatives to end epidemic

By Kenny Byrd

WASHINGTON (ABP) -- With the number of orphans in the world living with AIDS expected to exceed 10 million by 2010, more than 75 religious leaders came to the nation's capital for meetings with Clinton administration officials to discuss new initiatives and partnerships to combat the pandemic.

They include a heightened emphasis on funding and partnering with faith-based groups around the world.

"If we are to mount a response that is as broad and deep and sustained as the international AIDS pandemic demands, we must be in continuing and creative partnership with people and organizations of faith," said Sandra Thurman, director of the White House Office of National AIDS Policy.

A representative from the Baptist World Alliance participated in some of the meetings but was not immediately available for comment.

HIV/AIDS is now the fourth leading cause of death worldwide and the single leading cause of death in sub-Saharan Africa.

The meetings, held in conjunction with World AIDS Day, Dec. 1, drew more than 70 clerics and lay persons from 22 countries. The leaders began the five-day spree of meetings with a White House Summit on the disease, but leaders also met with officials from the Centers for Disease Control and the United States Agency for International Development.

President Bill Clinton addressed the leaders at Howard University and unveiled the first strategic plan ever to serve as a blueprint for establishing \$100 million in new funding approaches and research opportunities to combat HIV/AIDS in more than 50 countries.

Clinton urged Congress to increase funds for critical domestic and international HIV/AIDS funding priorities, including domestic and international AIDS prevention and treatment programs, creating a new vaccine tax credit, the Ryan White CARE Act, and investing in HIV/AIDS research.

Clinton told the religious leaders that a "simple, stark question," confronts the world: "Whether we are prepared to do what is necessary to save millions of lives, to save the lives of those who are living with HIV and AIDS and all those who might yet avoid it."

"How we answer will depend upon how well we work together as partners across lines of nationality, faith, religion, color, sexual orientation," Clinton said. "It will depend upon, in equal measure, our will and our wallet. And it will depend upon, in some places, still, sadly, going beyond denial."

Clinton said that clinics and community-based organizations across the land have worked hard to combat the pandemic. "Churches, synagogues, mosques and temples here are, more and more, speaking out with a single, clear voice about the importance of prevention as well as care."

At the beginning of the 1990s, health experts predicted that between 15 million and 20 million people would be living with HIV this year. The actual number is 36 million.

"The religious leaders from around the world who are here understand that these numbers mean something quite stark in human terms, not only for the individuals and the families, but ... for whole nations," Clinton said.

"When the disease threatens to triple child mortality and to reduce life expectancy by 20 years in some African countries, it is time to say that AIDS is also a moral crisis."

Clinton reminded religious leaders: "AIDS everywhere is still 100 percent preventable. Prevention is the most effective tool in our arsenal. No matter the cultural or religious factors to be overcome, families must talk about the facts of life before too many more learn the facts of death."

He added, "Overcoming stigma and overcoming silence will be impossible without the moral leadership that in so many places only religious leaders, like those who are here today, can provide."

"In the New Testament of the Christian Bible, it says that when we bear one another's burdens, we fulfill the law of God," he concluded. "So I ask you to go forth here, remembering that a happy heart is good medicine, too. Do not grow weary in doing this."

Warren Buckingham, senior technical adviser for HIV/AIDS for the Africa Bureau of USAID, said faith-based groups play a unique role in combating AIDS and would be one of the primary groups USAID and other would seek to partner with financially and otherwise.

Buckingham said the organization has a long history of funding religiously affiliated groups such as Catholic Charities, World Vision and others.

There is also much discussion about beginning a new worldwide coalition of religious organizations to address the epidemic. The only similar organization -- the AIDS National Interfaith Alliance -- emphasized the domestic face of AIDS but closed shop more than a year ago.

Buckingham said USAID has always been careful about separation of church and state in dispersing its funds to religious organizations. "We do have a long history of working with faith-based organizations who are able to differentiate the delivery of secular services from religious ones."

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