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Florida appeals ruling against voucher program

By Robert Marus

TALLAHASSEE, Fla. (ABP) -- Gov. Jeb Bush and other state officials quickly appealed a court ruling overturning Florida's 3-year-old voucher program.

In the first sign that the debate over public money for religious schools is moving from the federal level to the states, a Florida judge ordered a halt to the program Aug. 5, saying it violates the state constitution.

Circuit Judge Kevin Davey of Tallahassee ordered an immediate halt to a program offering state-funded scholarships, which students may use to pay for tuition at private religious schools. The scholarship program is intended to provide educational alternatives to children in chronically failing public schools.

The U.S. Supreme Court said in June that a similar program in Ohio did not violate the U.S. Constitution's ban on the establishment of religion, because religious institutions received the tuition money through the independent, private choices of parents.

But the Florida Constitution, Davey said, is more specific in prohibiting the indirect transfer of state funds to sectarian religious institutions.

Florida's Constitution says, "No revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution."

Davey said the voucher program violates "the clear mandate of the people as enunciated in the constitution."

Several Florida groups -- including a teachers' union, the state PTA, the Florida League of Women Voters and the state NAACP -- filed the lawsuit 1999, immediately after Bush, a Republican, signed a bill establishing the voucher program.

Fewer than 50 students received vouchers last year, but parents of 702 children have notified the state that they expect to take part in the program this fall.

The state's Aug. 6 appeal of Davey's ruling automatically delays its implementation, meaning voucher students may go ahead and attend religious schools this fall. Florida's teachers' union said it would challenge the automatic stay.

"Parents in Florida should not lose the power of choice," the governor said in a statement. "This decision is particularly disappointing given the U.S. Supreme Court's recent decision finding Ohio's choice program constitutional. This ruling is also troubling because it suggests that the Florida Constitution requires aid programs to discriminate against parents who choose religious schools."

Opponents of government aid for religious schools hailed Davey's ruling.

"We welcome the Florida court's decision and expect state constitutions will play a significant role as we enter the next phase of the voucher debate," said Holly Hollman, general counsel for the Baptist Joint Committee on Public Affairs, a religious-liberty watchdog group.

Hollman said most state constitutions are more specific than the U.S. Constitution in banning support for religious institutions.

Other observers agreed that church-state battles over vouchers would now likely move from federal courts into the various states.

"Florida has written into its constitution language that underscores the strong belief of its citizens that taxpayer funds should not be used to subsidize religion," said Elliot Minberg, legal director for People for the American Way Foundation. "Regardless of the Supreme Court's ruling on the federal Constitution, the legal issues concerning state voucher laws will depend largely on the language in these individual state constitutions."

Voucher supporters, however, said the Florida judge's ruling violates the federal Constitution by discriminating against parents who want to choose religious schools for their children.

"It is remarkable that the judge never even addresses the question of viewpoint discrimination and free exercise of religion under the U.S. Constitution," said Clark Neily, an attorney with the pro-voucher Institute for Justice. "Those issues represent the cutting edge of the law right now, and the court's silence is truly deafening."

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Mercer professor quits, claiming violation of academic freedom

By John Pierce

MACON, Ga. (ABP) -- A psychology professor has left Mercer University to teach elsewhere, claiming administrators at the Baptist-affiliated school violated his academic freedom by rejecting his proposal to survey students about their sexuality.

Professor Francis Dane recently moved to Saginaw Valley State University in Michigan. In a lengthy article in the Aug. 2 edition of *The Chronicle of Higher Education*, Dane said rejection of his plan to survey undergraduates about their sexual behavior violated his academic freedom.

Kirby Godsey, president of the university in Macon, Ga., denied the charge. Godsey, who has written extensively on defending academic freedom, said the project was inappropriate and would have created unnecessary controversy for the university.

"No one is questioning your right to conduct scientific investigation in your field of study," Godsey wrote to Dane, according to the article. "When the proposed research involves our own students as subjects, however, other equally important values, such as the equitable distribution of the risks and benefits of the research, must be considered."

Dane had intended to distribute questionnaires to 500 of the university's more than 2,000 undergraduates. Students were to be asked to respond anonymously to questions about sexual activities including masturbation, oral and anal sex and sexual stimulators.

Douglas Skelton, senior vice president for university research and health affairs, officially rejected Dane's project last spring. He told the Macon Telegraph that the university values its reputation for credible research and academic freedom. However, he said, "the university is ultimately responsible for assuring that the risk to the human subjects is properly addressed."

Skelton said the university believed that many students would be offended by the questions or by the conclusions drawn about them from the survey results.

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Georgia Baptists to sell hospital

By John Pierce

ATLANTA (ABP) -- Georgia Baptist Health Care System will sell its 41-bed hospital north of Atlanta to Northside Hospital for \$121.5 million, pending state approval, according to The Atlanta-Journal Constitution.

The Baptist Medical Center in Cumming is in a growing region and has been approved for an additional 37 beds.

In 1997, the Georgia Baptist Medical Center in downtown Atlanta was sold to Tenet Health System for \$250 million. Georgia Baptists used proceeds to retire debt and grow the newer Baptist Medical Center in Cumming in the highly populated northern suburbs.

However, GBHCS leaders also charted a costly course of acquiring rural healthcare facilities and launching a managed plan for the elderly that resulted in the loss of tens of millions of dollars.

In recent years other Baptist-owned hospitals have been sold or merged with other health-care providers to reduce operational costs. Baptist Health System in San Antonio, Texas, has agreed to sell its five hospitals to Vanguard Health Systems, Inc.

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