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NewsMakers

◆ **C. Roy Woodruff**, executive director of the American Association of Pastoral Counselors, told pastors at a Baptist Joint Committee-sponsored luncheon that legal immunity for pastors in counseling "exists no longer." Discussing legal issues in pastoral counseling was **Mike Woodruff**, a partner in the Washington, D.C., law firm of Gammon & Grange. As counselors, pastors are expected to meet professional, ethical and legal standards, they said. Both emphasized the pastor's spiritual and emotional health. "Take care of yourselves. You'll be better counselors for it," said Mike Woodruff.

◆ **Peter Kane**, a Massachusetts prison inmate, failed to convince a court his religious rights were violated when prison officials confiscated his multi-colored rosary beads. The Massachusetts Supreme Judicial Court said that Kane refused an offer from prison officials to keep a rosary with just black beads.

◆ **Russell Dilday**, whose 1994 firing as president of Southwestern Baptist Theological Seminary proved a watershed in a long-running battle between factions in the Southern Baptist Convention, is retiring after six years as a professor at George W. Truett Theological Seminary. Dilday is a former chair of the Baptist Joint Committee. Δ

High court hears arguments in Texas football prayer dispute

Addressing organized prayer at school events for the first time in nearly a decade, Supreme Court justices struggled with whether students should be allowed to lead stadium prayers at public high school football games.

The high court is deciding the constitutionality of a south Texas school district's policy that allows students selected by their colleagues to deliver a "brief invocation and/or message" during pregame ceremonies at home varsity football games.

Attorney Jay Sekulow told justices March 29 that the Santa Fe Independent School District's policy is "a neutral policy that simply allows student-led, student-initiated prayer." He added, "The policy does not violate the Establishment Clause."

Arguing for four anonymous students and their parents who challenged the prayer policy, attorney Anthony Griffin told justices, "I can pray before the football game. I can pray after. I can even pray during the football game. I don't need the government's forum."

The 5th U.S. Circuit Court of Appeals upheld nonsectarian, nonproselytizing graduation prayers in the Santa Fe district but said the policy cannot be extended to football game prayers.

The Supreme Court limited its review to the football game prayers and refused to delve into the issue of graduation prayer.

While Chief Justice William Rehnquist and Justice Antonin Scalia posed questions that appeared sympathetic to the school district's policy, most justices sounded skeptical.

"I'm not sure what solemnizing a football game is," Justice David Souter said. The school district is "asking us to shut our eyes" and to ignore the sequence of events that led to the policy, Souter added.



"The Santa Fe policy will result in coercion, control and compromise of prayer."

— Melissa Rogers

Justice Anthony Kennedy said electing a student to give a message will involve some kind of campaign. Students will end up having an election over whether to pray or not and who best can lead it, he said. "This is the kind of thing I think the Establishment Clause wants to keep out of schools."

O'Connor called the Santa Fe policy "an unusual sort of arrangement" and questioned if the policy could be expanded to the classroom where a student could be elected to lead the class in an opening prayer.

"The Santa Fe policy will result in coercion, control and compromise of prayer," said Baptist Joint Committee General Counsel Melissa Rogers in remarks to media after the arguments in the case.

"As people of faith we are called to pray. But we don't need or want government's help in doing so," she added.

The high court will issue a ruling before concluding its current term in late June. Δ

Ohio high court upholds sentence by judge who quoted scripture

In a unanimous decision, the Ohio Supreme Court has upheld a 51-year prison term imposed by a judge who quoted a Bible verse when sentencing a man for the rape of a young girl.

Last year an appeals court overturned the sentence, saying the judge acted outside Ohio's sentencing guidelines. The state Supreme Court disagreed, *The Associated Press* reported.

The state's high court said in a 7-0 ruling that Hamilton County Judge Melba Marsh did not violate the due process rights of James Arnett, who pleaded guilty to raping an 8-year-old girl repeatedly.

Marsh quoted a Bible verse during the 1988 sentencing of Arnett that says anyone who offends a child would be better off if "a millstone were hanged around his neck, and that he were drowned in the depth of the sea."

Justice Deborah Cook wrote that the Bible was one of many factors that supported a "legally unremarkable decision" by Marsh to assign significant weight to one statutory factor — the age of the victim. A

Muslim jail guards win round to keep beards

A federal judge in Newark, N.J., temporarily blocked the state Department of Corrections from enacting a new policy that prohibits prison guards from wearing beards. The action came after 33 Sunni Muslim officers filed a civil rights suit claiming the policy infringes on their religious freedom.

District Court Judge Faith Hochberg signed a temporary restraining order that barred the dismissal or disciplining of officers who refuse to shave, pending a hearing April 4. Although only 33 senior officers and sergeants filed the action, a lawyer for the men said many more stand to be affected.

The officers are veteran employees, some with more than 20 years of service, and all claim to be devout followers of Islam, which mandates the wearing of beards.

"Among our beliefs and teachings, it is an obligation for men who can grow a beard to do so and not to shave," said Mohamed A. Nasir, imam, or spiritual leader, of the National Islamic Association in Newark, a mosque of 200 families.

Nasir submitted an affidavit for the corrections officers, contending, "The Koran commands the wearing of the beard. ... The refusal of a Muslim male who can grow a beard to wear one is a sin."

The lawsuit drew heavily on a recent case involving the Newark Police Department. In decisions the U.S. Supreme Court refused to disturb, two federal courts ruled the city had no "compelling governmental interest" in banning beards worn for religious reasons. A.

Speaker Hastert appoints Catholic chaplain, ends dispute

Speaker of the House Dennis Hastert, R-Ill., appointed the House's first Catholic chaplain after months of partisan rancor and charges of anti-Catholic bias over the selection process.

The Rev. Daniel Coughlin, vicar for priests of the Chicago archdiocese, was sworn in to fill the tax-funded post March 23.

After forming a bipartisan search committee to fill the post vacated by retiring House chaplain James Ford, Hastert and House Majority Leader Dick Armey were criticized for passing over a Catholic candidate — the Rev. Timothy O'Brien — who had received the most support from the

search committee.

The two GOP leaders selected a Presbyterian minister, the Rev. Charles Parker Wright. House Minority Leader Richard Gephardt, D-Mo., supported O'Brien.

Hastert tapped Coughlin for the post after Wright decided not to accept the nomination.

"I have never seen a more cynical and more destructive political campaign," Hastert said on the floor of the House before announcing the appointment. "That such a campaign should be waged in connection with the selection of the House chaplain brings shame on this House."

Hastert said, "Daniel Coughlin is a Catholic. That does not make him more nor less qualified for the job. But I am proud of his historic appointment. I hope his appointment will help us to heal and that it will bring a sense of pride to the millions of Catholic men and women around this country who have had legitimate feelings of past discrimination, which some in this House have sought to manipulate."

Gephardt said he would support Coughlin. "I have never said and never believed that there was bias of any kind in the making of this selection," Gephardt said. "I do believe that in the future ... we can find a process that will ensure bipartisanship in the selection of this important office."

Rep. Gerald Kleczka, D-Wis., told House colleagues that some members had spread rumors to hurt the reputation of O'Brien, who resides in Kleczka's district.

"I think there are some in this body that owe Father Tim O'Brien an apology," Kleczka said.

Last year, O'Brien told *The New York Times* that had he been affiliated with any mainline Protestant denomination, he would have been selected. "If I were not a Catholic priest, I would be the House chaplain," he said.

Some critics of the selection process said the search panel ranked the candidates, an assertion denied by Hastert and others.

"We did not rank these candidates," said Rep. Earl Pomeroy, D-N.D. But in respect to "the degree of consensus behind the final three," Pomeroy said that he indicated to House leaders "that Father O'Brien had had the most support."

Hastert said that controversy has led some critics to advocate getting rid of the chaplaincy office. "Is that what is good for this institution?" Hastert asked lawmakers. "I hope your answer is no. But that, my friends, is where the political games could be taking us." A

Real challenge is winning hearts to compassionate understanding



"What part of Matthew 6:5 don't you understand?" was the message on a sign carried by a person who objects to the Santa Fe football prayer policy (see article on page 1). The sign referred to a portion of Jesus' Sermon on the Mount in

which He says: "And whenever you pray, do not be like the hypocrites; for they love to stand and pray in the synagogues and at the street corners, so that they will be seen by others. Truly I tell you, they have received their reward. But whenever you pray, go into your room and shut the door and pray to your Father who is in secret; and your Father who sees in secret will reward you." (Matthew 6:5-6)

This sign reminded me that there's quite a bit about this case that I don't understand. How is it, for example, that some can use the Christian banner to justify harassment and hostility? The names of the students who objected to the school-sponsored prayers and sued the school have not been made public, not because they were ashamed, but because, as a lower court found, the students were subject to "the possibility of social ostracism and violence due to militant religious attitudes."

There was uncontested evidence in the case that the students who objected to the prayers were verbally harassed. An American Baptist mother and grandmother living in Santa Fe, Texas, commented on her family's experience: "No one will ever understand the pain [the Santa Fe policy] has caused our four children and grandchildren — the hate that was toward them for speaking out for their religious freedom and for the plaintiffs' religious freedom. It's almost like we have become outcasts in our town. We have had threats, hateful phone calls. ... Our daughters were not let alone for a long time. If one went out, they all went

together. I have been followed more than once. Even from the court house. All in the name of God, Jesus and religion in the school."

In no way do I mean to suggest that all who support the Santa Fe policy have acted poorly, but how does even one who calls herself a Christian engage in such behavior? I am also not calling for hiding one's light under a bushel rather than heeding the Great Commission. It is certainly possible to spread the gospel in a loving way.

Another aspect of the case that is difficult to understand is why some are so blind to the reality of what it is like to be an average teenager, whose fondest dream is to have the adulation of her peers and whose ultimate nightmare is to be an outcast. During the oral argument of the case

*Freedom for me,
but not for thee?*

one justice asked the attorney for the objecting students whether any student was required to go to the public school football games. The attorney replied that football players, band members and cheerleaders were required to attend the game. Justice Scalia retorted, well, is anyone required to be a football player, band member or cheerleader? The attorney replied incredulously, "When you are a teenager, yes! I speak from experience."

I am further confounded by the fact that some Christians seem to feel completely justified in demanding "freedom for me, but not for thee." In interviews with several Texas high school students, reporter Nina Totenberg asked: "And what if a Muslim or a Jew wanted to say his or her prayer before the game?" One student responded, "It's not going to bother me. I mean, as long as there was a prayer to Jesus." Another student replied, "I don't think I would like it. That's not my faith and so we believe there's only one true God."

Based on the oral argument, I think it is likely that we'll win the legal case. Winning people's hearts and minds to compassionate understanding is another matter entirely. Δ

Quoting

"On the one hand, [the Santa Fe football prayer] policy stands as an endorsement of prayer — a quintessential religious act. But on the other hand, the school district's policy denigrates and trivializes the act of prayer by portraying an act of religious devotion as a quasi-secular ceremonial practice. Even more dangerous, the policy invades the sacred realm of private religious expression by telling students that their prayers must be non-sectarian and non-proselytizing..."

"... If nothing else, this is what the First Amendment protections mean — that the state should not and cannot place a person of tender age in the untenable position of having to choose between violating her conscience by feigning participation in a state-endorsed, public religious exercise, or making a maverick public assertion of dissent by refusing to participate."

"... The sanctity of prayer is preserved best by keeping the state — including school districts — out of the business of endorsing and supervising the public prayers of its students. Rejecting Santa Fe (Independent School District's) policy of having pregame prayers does not mean that students may not pray during school hours and at school-related events, including athletic events."

*Amicus brief in
Santa Fe Independent
School District vs. Doe*
• Baptist Joint Committee
• Dawson Institute of
Church-State Studies
• General Conference of
Seventh-day Adventists

Baptist Joint Committee

Supporting Bodies

- ◆ Alliance of Baptists
- ◆ American Baptist Churches in the U.S.A.
- ◆ Baptist General Conference
- ◆ Cooperative Baptist Fellowship
- ◆ National Baptist Convention of America
- ◆ National Baptist Convention U.S.A. Inc.
- ◆ National Missionary Baptist Convention
- ◆ North American Baptist Conference
- ◆ Progressive National Baptist Convention Inc.
- ◆ Religious Liberty Council
- ◆ Seventh Day Baptist General Conference
- ◆ Southern Baptist state conventions/churches

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Supreme Court upholds mandatory student fees

Public universities may use mandatory student fees to fund college groups that students may find objectionable, a unanimous U.S. Supreme Court ruled March 22.

The high court upheld the University of Wisconsin's program of disbursing student fees to campus groups, reversing a lower court ruling against the school.

The program had been challenged by several conservative students who said they should not be forced to subsidize groups counter to their own religious and political views, including homosexual and women's rights groups and an HIV/AIDS support network.

"If a university decided that its students' First Amendment interests were better protected by some type of optional or refund system it would be free to do so," said the majority opinion written by Justice Anthony Kennedy. "We decline to impose a system of that sort as a constitutional requirement, however."

The decision signed by Kennedy, Chief Justice William Rehnquist and Justices Sandra Day O'Connor, Antonin Scalia, Clarence Thomas and Ruth Bader Ginsburg, said extracurricular discussions of philosophical, religious, scientific, social and political subjects held outside the lecture hall can enhance student education.

"If the University reaches this conclusion, it is entitled to impose a mandatory fee to sustain an open dialogue to these ends," Kennedy wrote.

Students attending the University of Wisconsin-Madison pay mandatory student fees or they cannot receive their grades or graduate. During the 1995-96 academic year, students paid \$166 in fees each semester.

During that school year, students sued the board of regents, claiming that the policy violated their First Amendment rights. They cited evidence of 18 organizations that both receive student fees and engage in political and ideological activities, including the Lesbian, Gay, Bisexual Campus Center; Campus Women's Center; Madison AIDS Support Network; and Students of National Organization for Women.

The 7th U.S. Circuit Court of Appeals said the university burdened the free speech rights of objecting students, but the Supreme Court disagreed.

The six justices signing the majority opinion said the university must provide some protection to students' First Amendment interests.

"The proper measure and the principal standard of protection for objecting students, we conclude, is the requirement of viewpoint neutrality in the allocation of funding support," they ruled.

Viewpoint neutrality was the principle behind a 1995 Supreme Court ruling that the University of Virginia could not deny student activity fees to a student publication simply because it was religious.

"Viewpoint neutrality is the justification for requiring the student to pay the fee in the first instance and for ensuring the integrity of the program's operation once the funds have been collected," the court said.

A concurring opinion written by Justice David Souter and signed by Justices John Paul Stevens and Steven Breyer agreed with the majority's view that the university's program is constitutionally permissible. But the three did not believe "that the Court should take the occasion to impose a cast-iron viewpoint neutrality requirement to uphold it." Δ



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