

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
Danville Division

JANE DOE,)	
)	
Plaintiff,)	
)	
v.)	
)	Civil No. _____
PITTSYLVANIA COUNTY, VIRGINIA and)	
BOARD OF SUPERVISORS OF)	
PITTSYLVANIA COUNTY, VIRGINIA)	
)	
Defendants.)	

VERIFIED COMPLAINT

Introduction

1. This is an Establishment Clause challenge under 42 U.S.C. § 1983 to the Pittsylvania County Board of Supervisors' practice of opening its meetings with Christian prayer. The Board is the governing body of Pittsylvania County, Virginia, and its meetings are the main venue at which Pittsylvania County citizens may observe and participate in the workings of their local government. Sectarian prayers send a message to those who do not adhere to the Board's favored beliefs that they are not full members of the political community. As the Court of Appeals for the Fourth Circuit recently observed in holding such prayers unconstitutional, "Faith is as deeply important as it is deeply personal, and the government should not appear to suggest that some faiths have it wrong and others got it right." *Joyner v. Forsyth County*, ___ F.3d ___, 2011 WL 3211354, *8 (4th Cir. July 29, 2011). Accordingly, plaintiff seeks a declaration that the Board's sectarian prayers are unconstitutional, a preliminary and permanent injunction against the prayers, as well as nominal damages and attorney's fees and costs.

Jurisdiction

2. This action arises under the Constitution of the United States and 42 U.S.C. § 1983. This Court has jurisdiction pursuant to Article III of the United States Constitution and 28 U.S.C. § 1331. Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202.

Parties

3. Plaintiff Jane Doe is a resident of Pittsylvania County, Virginia, since 2006, and has lived there, on an off, since 1996. She sues pseudonymously because she fears that she will be retaliated against and ostracized in the community if her true identity becomes known.¹

4. Defendant Pittsylvania County, Virginia is a political subdivision of the Commonwealth of Virginia.

5. Defendant Board of Supervisors of Pittsylvania County, Virginia (“Board”) is the governing body of Pittsylvania County. It is composed of seven members who serve terms of four years.

Factual Allegations

6. The Board meets twice a month. It always opens its meetings with an invocation.

7. A member of the Board of Supervisors delivers the opening invocation at each Board meeting.

8. The opening invocation at nearly every meeting is explicitly Christian in nature; that is, it invokes the name of “Jesus Christ” “Jesus” or “Christ.” For example, the prayer delivered on August 17, 2010 was as follows:

Gracious heavenly father, we thank you for the opportunity to address you, and thank you O Lord, because you made all of this possible. You are our God, you are our King, you are the reason we are here. God, without you, and Jesus, without you, there would be no life on earth, and we would not be able to sit down and express our Christian values before the good people of Pittsylvania County. Amen.

¹ A motion for leave to proceed using pseudonyms is filed contemporaneously.

9. The audience is asked to stand while the prayer is delivered. The supervisors and the audience bow their heads.

10. Except in case of illness or infrequent scheduling conflicts, Jane Doe has attended every Board meeting since October 2008, because she believes it is important to observe and understand the workings of her local government. She intends to continue attending every meeting.

11. Jane Doe objects to the Board's practice of opening its meetings with Christian prayer because she does not subscribe to the particular faith promoted by the Board's opening prayers. Ms. Doe believes that the prayers convey to her and other non-Christian citizens the message that they are not welcome at Board meetings. Ms. Doe also believes that the prayers create a perception that the Board is unlikely to treat non-Christians fairly because they do not follow the Board's preferred faith. As a result of the sectarian prayers, Ms. Doe feels like an outsider in her own community. Plaintiff, as a citizen and resident of Pittsylvania County is entitled to attend meetings of her Board of Supervisors without being subjected to prayers that advance and prefer one religion, Christianity, to the exclusion of other religions that do not recognize the deity of Jesus, including but not limited to Judaism, Islam and Hinduism.

12. After reading about *Joyner v. Forsyth County*, ___ F.3d ___, 2011 WL 3211354, *8 (4th Cir. July 29, 2011), in which the Fourth Circuit held sectarian legislative prayer unconstitutional, Ms. Doe alerted the American Civil Liberties Union (ACLU) of Virginia to the Board's unconstitutional prayers. On Tuesday, August 16, 2011, the ACLU of Virginia sent an email to each of the Board members, with a copy to the County Attorney, explaining that the precedents of the Supreme Court and the Fourth Circuit Court of Appeals prohibit legislative

meetings from being opened with sectarian prayers, and asking the Board to cease its practice of such prayers.

13. At the Board's meeting on the evening of August 16, 2011, having received the ACLU of Virginia's email, Supervisor William Pritchett led the Board and the audience in a Christian prayer. Unprecedentedly, each of the other supervisors then said their own prayer, all but two of which were explicitly Christian. Board Chairman Tim Barber declared, according to news reports, "We're going to have a minority tell us we can't pray?" and "If they want to challenge it in court, I say challenge it in court."

14. At the Board meeting on September 6, 2011, more than 200 people gathered to demonstrate their support for the delivery of prayers to Jesus Christ at Board meetings. Prior to roll call, Supervisor Coy E. Harville delivered a Christian prayer. Following public comment, during which more than a dozen people spoke in favor of sectarian prayers, the Board passed a resolution pertaining to opening invocations at Board meetings, attached hereto as Exhibit A.

15. The resolution moves the prayer, which was previously listed on the agenda between Roll Call and the Pledge of Allegiance, to before the Roll Call, and provides that "[t]he prayer shall not be listed or recognized as an agenda item for the meeting or as part of the public business." Nonetheless, the prayer is still an official activity of the Board of Supervisors. Among other things, the resolution provides that (a) the purpose of the prayer is "to solemnize proceedings of the Board of Supervisors"; (b) the prayer is "for the benefit of the Board of Supervisors"; (c) the prayer shall be delivered by members of the Board of Supervisors, on a rotating basis; and (d) "the Chairperson shall introduce the invitational speaker."

16. Although the resolution provides that "no prayer should proselytize or advance any faith, or disparage the religious faith or non-religious views of others," supervisors at the

September 6, 2011, Board meeting stated their intention to continue praying in the name of Jesus Christ, and have, indeed, continued that practice.

Claim for Relief
(42 U.S.C. § 1983, First Amendment)

17. The sectarian prayers at meetings of Pittsylvania County's Board of Supervisors violate the Establishment Clause of the First Amendment to the United States Constitution, as applied to the states by the Fourteenth Amendment.

18. The Board's policy, practice and custom of opening meetings with sectarian prayers have the purpose of advancing one particular faith to the exclusion of other religions.

19. These prayers have the effect of advancing a particular faith by affiliating the government, i.e., Pittsylvania County, with Christianity.

20. The sectarian prayers convey the impermissible message that Pittsylvania County and the Board of Supervisors endorse and favor Christianity.

Request for Relief

Plaintiff respectfully requests the following relief:

A. A declaratory judgment declaring that defendants' practice of engaging in sectarian prayers at Board of Supervisors meetings violates the Establishment Clause of the First Amendment to the United States Constitution;

B. A preliminary, and thereafter, permanent injunction prohibiting defendants from engaging in or sponsoring sectarian prayers at meetings of the Pittsylvania County Board of Supervisors;

C. Nominal damages;

D. Plaintiff's reasonable costs and attorney fees, pursuant to 42 U.S.C. § 1988; and

E. Such other and further relief as to the Court seems just and proper.

Respectfully submitted,

JANE DOE

/s/

Rebecca K. Glenberg (VSB No. 44099)
Thomas O. Fitzpatrick (VSB #80364)
American Civil Liberties Union of Virginia
Foundation, Inc.
530 E. Main Street, Suite 310
Richmond, Virginia 23219
(804) 644-8080
Fax: (804) 649-2733
rglenberg@acluva.org

Frank M. Feibelman (VSB #13877)
Cooperating Attorney for the ACLU of Virginia
5206 Markel Rd., Suite 102
Richmond, Virginia 23230
(804) 355-1300
FAX: (804) 355-4684
frank@feibelman.com

VERIFICATION

I Jane Doe, declare under penalty of perjury that the foregoing Verified Complaint is true and correct to the best of my knowledge and ability.

9/20/2011
Date

Jane Doe
Jane Doe