

FREEDOM FROM RELIGION *foundation*

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SENT VIA EMAIL & U.S. MAIL
UTPresident@utoledo.edu

Dr. Sharon L. Gaber
President, University of Toledo
University Hall
Room #3500, Mail Stop 946
2801 W. Bancroft Street
Toledo OH 43606

Re: Unconstitutional Coach-Led Prayer

Dear President Gaber:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring at the University of Toledo. We were contacted by a concerned alumnus. FFRF is a national nonprofit organization with 22,500 members across the country, including nearly 600 members in Ohio and a local chapter, Northern Ohio Freethought Society. Our purpose is to protect the constitutional principle of separation between state and church.

It is our understanding that Toledo Football Coach Matt Campbell lead his team in the Lord's Prayer before Toledo played Bowling Green State University on September 15, 2012. In a video posted on the University's YouTube page entitled "All Access: Toledo Rockets Pre-Game" Coach Campbell can be seen calling his team together before the game. All the players are on one knee and Coach Campbell joins them on one knee before grasping hands and leading the team in the Lord's Prayer. Coach Campbell remains the head coach of Toledo Football and we are concerned this practice continues.

The Supreme Court has continually struck down school-sponsored prayer in public schools. *See, e.g., Abington Twp. Sch. Dist. v. Schempp*, 374 U.S. 203 (1963) (holding school-sponsored devotional Bible reading and recitation of the Lord's Prayer unconstitutional); *Lee v. Weisman*, 505 U.S. 577 (1992) (finding prayers at public high school graduations an impermissible establishment of religion); *Wallace v. Jaffree*, 472 U.S. 38 (1985) (overturning law requiring daily "period of silence not to exceed one minute . . . for meditation or daily prayer"); *Engel v. Vitale*, 370 U.S. 421 (1962) (declaring school-sponsored prayers in public schools unconstitutional); *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000) (holding student-led prayer over the loudspeaker before football games unconstitutional. "Regardless of the listener's support for, or objection to, the message, an objective Santa Fe High School student will unquestionably perceive the inevitable pregame prayer as stamped with her school's seal of approval" because it occurred at a "regularly scheduled school-sponsored function conducted on school property.").

In each of these cases, the Supreme Court struck down school-sponsored prayer because it constitutes a government advancement and endorsement of religion, which violates the Establishment Clause of the First Amendment.

In *Mellen v. Bunting*, a federal court extended the scope of the aforementioned cases from primary and secondary schools to college-aged students when institutional circumstances create a coercive religious environment. 327 F.3d 355, 372. The court found that supper prayer at a state military college (VMI) was

an unconstitutional violation of the Establishment Clause. *Id.* This was primarily because of the educational environment at VMI, which emphasized the detailed regulation of conduct. *Id.* The court found the prayer unconstitutional given the coercive atmosphere.

The Toledo Football program's authority over student athletes is similar to that of VMI, in that much of the players' conduct is closely monitored, directed, and critiqued by coaching staff. Coach Campbell demanded that all players participate in the pregame prayer. Players trying to please their coach or curry favor surely feel huge pressure to participate in the pregame prayer led by Coach Campbell.


The University and the football coaching staff are endorsing religion whenever Coach Campbell incorporates prayer into the team's pregame activities and allows himself or the coaching staff to lead them. Again, it is unconstitutional for public school coaches to participate in student religious activities. *See, e.g. Borden v. Sch. Dist. of the Twp. of East Brunswick*, 523 F.3d 153 (3d Cir. 2008), *cert. denied*, 129 S.Ct. 1524 (2009) (declaring the coach's organization, participation, and leading of prayers before football games unconstitutional); *Doe v. Duncanville Indep. Sch. Dist.*, 70 F.3d 402 (5th Cir. 1995) (declaring basketball coach's participation in student prayer circles an unconstitutional endorsement of religion).

Coach Campbell's conduct is unconstitutional because he endorses and promotes his religion when acting in his official capacity as a university employee. Certainly, he represents the school and the team when he acts in his official role as head coach of Toledo Football. Therefore, he cannot lead his team in prayer and he cannot organize or advocate for student athletes to lead team prayer either. When a public school employee acting in an official capacity organizes and advocates for team prayer, he effectively endorses religion on the school's behalf.

Coaches should be aware of the tremendous influence they have on their athletes. These young men spend a great deal of time in their coach's charge, and the coaches through their own example must be sure that athletes are not only treated fairly but also imbued with a sense of community and camaraderie. Moreover, "the preservation and transmission of religious beliefs and worship is a responsibility and choice committed to the private sphere." *Santa Fe Indep. Sch. Dist. v. Does*, 530 U.S. 290, 310 (2001) (quoting *Lee v. Weisman*, 505 U.S. at 589). By incorporating a Christian prayer into the team's pregame activities, Coach Campbell sends a message of exclusion to those players on his team not in conformity with his personal religious beliefs.

We ask that the University commence an immediate investigation into the complaint alleged and take immediate action to stop any and all prayers occurring within any University athletic programs. Please inform us in writing of the steps you are taking to remedy this serious and flagrant violation of the First Amendment.

Sincerely,


Rebecca S. Markert
Staff Attorney

RSM:njf

Cc: Mike O'Brien, Athletic Director, University of Toledo via michael.obrien6@utoledo.edu