

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

A.B., a minor child, by his mother and)	
next friend, V.S.,)	
)	
Plaintiff,)	
)	
v.)	No. 1:15-cv-157
)	
MICHELLE MEYER, in her individual)	
capacity,)	
)	
Defendant.)	

Complaint for Damages

I. Introduction

1. In February of 2015, A.B. was a second grader at Forest Park Elementary School, a school that is within Fort Wayne Community Schools. During a discussion with classmates on the playground he responded to a question by indicating that he did not go to church because he did not believe in God. This resulted in his teacher interrogating the child as to his beliefs and requiring the child to sit by himself during lunch and not talk to his classmates during lunch for three days. This violates the First Amendment. The defendant’s actions caused great distress to A.B. and resulted in the child being ostracized by his peers past the three-day “banishment.” No meaningful attempt has been made to remedy these injuries and the child seeks his damages.

Jurisdiction, cause of action, venue

- 2. This Court has jurisdiction of this action pursuant to 28 U.S.C. § 1331 and § 1343.
- 3. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

4. Plaintiff brings this action pursuant to 42 U.S.C. § 1983 to redress the deprivation, under color of state law, of rights secured by the First Amendment of the United States Constitution as applied to the defendant by the Fourteenth Amendment.

Parties

5. A.B. is a minor child who resides in Fort Wayne, Indiana. He is proceeding by his initials pursuant to Federal Rule of Civil Procedure 5.2(a)(3). He brings this action by his mother, legal guardian, and next friend, V.S., a pseudonym.

6. Michelle Meyer is an adult who is a teacher at Forest Park Elementary School.

Factual allegations

7. In February of 2015, A.B. was a second-grade student at Forest Park Elementary School.

8. His teacher was Michelle Meyer.

9. On or about February 23, 2015, A.B. and his classmates were on the playground during the school day immediately before lunch when A.B. was asked by one of his classmates if he attended church.

10. A.B. responded by stating that he did not go to church and did not believe in God. He also stated that it was fine with him if his inquiring classmate believed in God.

11. The classmate said that A.B. had hurt her feelings by saying that he did not believe in God and started to cry.

12. A playground supervisor reported to Ms. Meyer what had happened.

13. At that point the students were going to lunch and Ms. Meyer asked A.B. if he had told the girl that he did not believe in God and A.B. said he had and asked what he had done wrong.

14. Ms. Meyer asked A.B. if he went to church, whether his family went to church, and whether his mother knew how he felt about God.

15. She also asked A.B. if he believed that maybe God exists.
16. Ms. Meyer told A.B. that she was very concerned about what he had done and that she was going to contact his mother – although she never did.
17. This was very upsetting to A.B. as he was made to feel that he had done something wrong.
18. A day or two after the initial incident, A.B. and his fellow-student who had become upset with his comment on the playground were sent to another adult employed at Forest Park Elementary School.
19. This person asked them what the problem was and A.B. indicated that his classmate had become upset when, in response to her question, he had said he did not go to church and did not believe in God.
20. Upon hearing this, the adult employee looked at A.B.'s classmate and stated that she should not be worried and should be happy she has faith and that she should not listen to A.B.'s bad ideas. She then patted the little girl's hand.
21. This was, again, extremely upsetting to A.B. as it reinforced his feeling that he had done something very wrong.
22. On the day of the incident and for an additional two days thereafter, Ms. Meyer required that A.B. sit by himself during lunch and told him he should not talk to the other students and stated that this was because he had offended them. This served to reinforce A.B.'s feeling that he had committed some transgression that justified his exclusion.
23. When V.S. was told by A.B. what had happened she called the Assistant Principal of the school and demanded an explanation.

24. The Assistant Principal set up a three-way telephone conversation with V.S., Ms. Meyer and himself.

25. Ms. Meyer confirmed her involvement in this matter as noted above.

26. V.S. demanded that the school not isolate her son or punish him for his beliefs.

27. After three days A.B. was allowed to join his classmates for lunch and all sanctions and restrictions were lifted.

28. After this three-day period, and after V.S. complained, A.B. was told by Ms. Meyer and other teachers that he could believe what he wants.

29. But this was after A.B. had been publicly separated from his classmates and informed that he could not speak to them. All the students in his class heard and were aware of this. He was publicly shamed and made to feel that his personal beliefs were terribly wrong.

30. No efforts were made to correct the damages that had been done.

31. A.B. came home from school on multiple occasions crying saying that he knows that everyone at school – teachers and students – hate him.

32. Even now there are some classmates who will not talk to A.B.

33. Even now A.B. remains anxious and fearful about school, which is completely contrary to how he felt before this incident.

34. At all times defendant acted, and refused to act, under color of state law.

Legal claims

35. The actions of defendant violated rights secured to A.B. by the First Amendment to the United States Constitution.

Request for relief

WHEREFORE, A.B. requests that this Court:

1. Accept jurisdiction of this case and set it for hearing.
2. Award him his damages after trial.
3. Award him his costs and reasonable attorneys' fees.
4. Award him all other proper relief.

s/ Kenneth J. Falk

Kenneth J. Falk
No. 6777-49
ACLU of Indiana
1031 E. Washington St.
Indianapolis, IN 46202
317/635-4059
fax: 317/635-4105
kfalk@aclu-in.org

Attorney for Plaintiff