

**FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

FELLOWSHIP OF CHRISTIAN  
ATHLETES, an Oklahoma  
corporation; FELLOWSHIP OF  
CHRISTIAN ATHLETES OF  
PIONEER HIGH SCHOOL, an  
unincorporated association;  
CHARLOTTE KLARKE;  
ELIZABETH SINCLAIR,  
*Plaintiffs-Appellants,*

v.

SAN JOSE UNIFIED SCHOOL  
DISTRICT BOARD OF  
EDUCATION; NANCY  
ALBARRAN, in her official and  
personal capacity; HERB ESPIRITU,  
in his official and personal capacity;  
PETER GLASSER, in his official and  
personal capacity; STEPHEN  
MCMAHON, in his official and  
personal capacity,  
*Defendants-Appellees.*

No. 22-15827

D.C. No.  
4:20-cv-02798-  
HSG

ORDER

Filed April 3, 2023

Before: Mary H. Murguia, Chief Judge, and Consuelo M. Callahan, Milan D. Smith, Jr., Sandra S. Ikuta, Mark J. Bennett, Eric D. Miller, Bridget S. Bade, Daniel A. Bress, Danielle J. Forrest, Patrick J. Bumatay and Jennifer Sung, Circuit Judges.

Order;  
Dissent by Chief Judge Murguia

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## **SUMMARY\***

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### **Civil Rights**

A majority of judges voted to issue an injunction pending resolution of this appeal ordering Defendants-Appellees, the San Jose Unified School District Board of Education and certain individuals, to forthwith recognize student chapters affiliated with the Fellowship of Christian Athletes, including the Pioneer High School student chapter, as official “Associated Student Body” approved clubs.

Chief Judge Murguia respectfully dissented from the grant of injunctive relief pending resolution of this appeal.

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\* This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

## ORDER

A majority of judges have voted to issue an injunction pending resolution of this appeal. Defendants-Appellees San Jose Unified School District Board of Education, Nancy Albarran, Herb Espiritu, Peter Glasser, and Stephen McMahon are hereby ordered forthwith to recognize student chapters affiliated with the Fellowship of Christian Athletes, including the Pioneer High School student chapter, as official “Associated Student Body” approved clubs.

This injunction pending appeal is issued pursuant to Fed. R. App. P. 8 and Fed. R. Civ. P. 62(g) and shall remain in place until we issue an opinion on the merits of this appeal.

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MURGUIA, Chief Judge, dissenting:

I respectfully dissent from the grant of injunctive relief pending resolution of this appeal.