

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

Civil Action No.

**ORIGINAL
FILED**

FEB - 1 2001

THE REV. DR. MICHAEL A. NEWDOW, IN PRO PER;

Plaintiff,

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____
DEPUTY CLERK

v.

GEORGE W. BUSH, PRESIDENT OF THE UNITED STATES;

Defendant.

CIV. 5-01-0218 LKK GGH PS

ORIGINAL COMPLAINT

Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. This is a civil action claiming violations of the First and Fifth Amendments of the Constitution of the United States of America. As such, this Court has jurisdiction under 28 U.S.C. § 1331.
2. This action is founded upon the Constitution of the United States of America. As such, this Court has jurisdiction over Defendant under 28 U.S.C. § 1346(a)(2).

1 3. This action is in the nature of mandamus, and seeks to compel the President of the United
2 States of America, his agents and officers to perform their duties owed Plaintiff under the
3 terms of the First and Fifth Amendments of the Constitution of the United States. As
4 such, this Court has jurisdiction under 28 U.S.C. § 1361.

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6 4. Defendant is an officer or employee of the United States acting in his official capacity or
7 under color of legal authority. Plaintiff resides in this judicial district. Venue is therefore
8 proper under 28 U.S.C. § 1391(e).

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11 PARTIES

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5. Plaintiff Michael A. Newdow is a citizen of the United States, and a resident of the State
15 of California.

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6. Defendant George W. Bush is the President of the United States, in whom is vested the
18 executive Power under Article II, Section 1 of the United States Constitution.

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[A]cts like the one in question prove only that public officials, no matter when they serve, can turn a blind eye to constitutional principle.¹

CLAIM FOR RELIEF

7. The First Amendment of the United States Constitution states “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof ...”
8. The United States Supreme Court has extended the ambit of these words to include any governmental actor.
9. Defendant George W. Bush is the newly-elected President of the United States.
10. On January 20, 2001, Defendant was inaugurated into the office of President.
11. Under his direction and/or under the direction of his agents and officers, Defendant called upon Rev. Franklin Graham to provide a prayer at the inauguration. See Appendix.
12. To offer prayer at an official governmental ceremony is a religious act per se, and violates the Establishment Clause.

¹ Lee v. Weisman, 505 U.S. 577, 616 (1992) (Souter, J., concurring) (note 3).

1
2 13. Not only was the aforementioned prayer clearly religious, it was clearly sectarian as well

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4 14. By declaring there is a God, the prayer excluded atheistic Americans.

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6 15. By stating the prayer was "in the name of the father, and of the son, the Lord Jesus Christ,
7 and of the Holy Spirit, the prayer further excluded theistic non-Christians.

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9 16. The prayer was facially religious. Thus, it violated the Establishment Clause.

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11 17. The prayer had a primarily religious effect. Thus, it violated the Establishment Clause.

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13 18. The prayer showed a preference for a particular religious belief. Thus, it violated the
14 Establishment Clause.

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16 19. The prayer demonstrated an affiliation of government with a particular religious belief.
17 Thus, it violated the Establishment Clause.

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19 20. The prayer signaled a disapproval of other religious choices. Thus, it violated the
20 Establishment Clause.

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22 21. The prayer violated the principal of governmental neutrality towards religion. Thus, it
23 violated the Establishment Clause.

1 22. The prayer inculcated a specific religious belief. Thus, it violated the Establishment
2 Clause.

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4 23. The prayer – in a governmental ceremony such as the presidential inauguration –
5 amounted to the coercive imposition of religious dogma. Thus, it violated the
6 Establishment Clause.

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8 24. The prayer placed governments “imprimatur” on a specific religious belief. Thus, it
9 violated the Establishment Clause.

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11 25. Upon information and belief, federal tax dollars were spent – under the taxing and
12 spending power of Article I, 8, of the Constitution – to hold the ceremony, to assist Rev.
13 Graham, and to broadcast the Defendant’s religious message. Thus, the Establishment
14 Clause was violated.

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16 26. The federal tax dollars referred to in the preceding paragraph included tax dollars paid by
17 Plaintiff.

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19 27. There is a fundamental constitutional right to observe and participate in the Nation’s
20 official ceremonies free from governmental endorsement of religion.

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22 28. Plaintiff watched the inaugural ceremonies on television.
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1 29. The effect of the Rev. Graham's purely religious words was for Christian Americans to
2 perceive them as an endorsement of their Christianity, and for non-Christian Americans,
3 including Plaintiff, to perceive the Pledge as a disapproval of their non-Christianity. Thus,
4 the Establishment Clause was violated.

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6 30. Due to this religious activity, Plaintiff – a minister of a religious faith that specifically
7 denies the existence of God and the veracity of Christianity – was made to feel as an
8 “outsider.” Thus, the Establishment Clause was violated.

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10 31. In addition to its constitutional infirmities, the aforementioned activity is void as against
11 public policy. One of the key purposes of an inauguration is to engender national unity.
12 By placing sectarian religion into the ceremony, that unity is frayed.

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14 32. The primary act of the inauguration is the administration of the presidential oath of office.

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16 33. That oath is a declaration that the new President will uphold the Constitution of the United
17 States:

18 I do solemnly swear (or affirm) that I will faithfully execute the Office of the President
19 of the United States, and will to the best of my ability, preserve, protect and defend the
20 constitution of the United States.
21

22 34. It is an offense of the highest magnitude that the leader of our nation – while swearing to
23 uphold the Constitution – publicly violated that very document upon taking his oath of
24 office.

1 WHEREFORE, Plaintiff prays for relief and judgment as follows:

- 2
3 I. To declare that Defendant President George W. Bush – in utilizing any clergyman
4 (much less a Christian minister) in his inauguration – violated the Establishment
5 Clause of the United States Constitution;
- 6 II. To enjoin Defendant from repeating this or engaging in any similar religious acts.
- 7 III. To allow Plaintiff to recover costs, expert witness fees, attorney fees, etc. as may be
8 allowed by law; and
- 9 IV. To provide such other and further relief as the Court may deem proper.

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11 Respectfully submitted,

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Michael Newdow, Plaintiff
First Amendmist Church of True Science
PO Box 233345
Sacramento CA 95823
(916) 427-6669

APPENDIX

TEXT OF PRAYER OFFERED BY REV. FRANKLIN GRAHAM AT PRESIDENT BUSH'S INAUGURATION, JANUARY 20, 2001

Let us pray.

Blessed are you, O Lord, our God. Yours, O God, is the greatness and the power and the glory and the majesty and the splendor, for everything in heaven and earth is yours. Yours, O Lord, is the kingdom. You're exalted as head over all. Wealth and honor come from you. You are the ruler of all things. In your hands are strength and power to exalt and to give strength to all.

As President Lincoln once said, "We have been the recipients of the choicest bounties of heaven. We have been preserved these many years in peace and prosperity. We have grown in numbers, wealth and power as no other nation has ever grown. But we have forgotten God. It behooves us then to humble ourselves before the offended powers, to confess our national sins and to pray for clemency and forgiveness."

O Lord, as we come together on this historic and solemn occasion to inaugurate once again a president and vice president, teach us afresh that power, wisdom and salvation come only from your hand.

We pray, O Lord, for President-elect George W. Bush and Vice President-elect Richard B. Cheney to whom you have entrusted leadership of this nation at this moment in history. We pray that you'll help them bring our country together so that we may rise above partisan politics and seek the larger vision of your will for our nation.

Use them to bring reconciliation between the races, healing to political wounds, that we may truly become one nation under God.

Give our new president, and all who advise him, calmness in the face of storms, encouragement in the face of frustration, and humility in the face of success. Give them the wisdom to know and to do what is right and the courage to say no to all that is contrary to your statutes of holy law.

Lord, we pray for their families, and especially their wives, Laura Bush and Lynne Cheney, that they may sense your presence and know your love.

Today, we entrust to you President and Senator Clinton, and Vice President and Mrs. Gore. Lead them as they journey through new doors of opportunity to serve others.

Now, O Lord, we dedicate this presidential inaugural ceremony to you. May this be the beginning of a new dawn for America as we humble ourselves before you and acknowledge you alone as our Lord, our Savior and our Redeemer.

We pray this in the name of the father, and of the son, the Lord Jesus Christ, and of the Holy Spirit. Amen.

PLAINTIFF'S ADDRESS, PHONE, FAX & E-MAIL

Rev. Dr. Michael A. Newdow
First Amendmist Church of True Science
PO Box 233345
Sacramento, CA 95823

Phone: (916) 427-6669
Fax: (978) 359-7866
e-mail: FirstAmendmist@cs.com

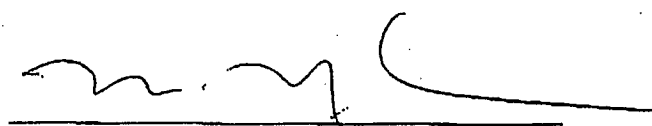
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was/will be mailed on this 1st day of February, 2001, to:

THE ATTORNEY GENERAL
DEPARTMENT OF JUSTICE
950 PENNSYLVANIA AVENUE, NW
WASHINGTON DC 20530-0001

GEORGE W. BUSH
PRESIDENT OF THE UNITED STATES
THE WHITE HOUSE
WASHINGTON DC 20500

PAUL L. SEAVE
UNITED STATES ATTORNEY
501 "I" STREET, SUITE 10-100
SACRAMENTO CA 95814-2322



Rev. Dr. Michael Newdow
FACTS
PO Box 233345
Sacramento CA 92823