

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

MICHAEL NEWDOW, <u>et al.</u> ,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 08-2248 (RBW)
)	
JOHN ROBERTS, JR., CHIEF JUSTICE)	
OF THE U.S. SUPREME COURT, <u>et al.</u> ,)	
)	
Defendant.)	
)	

ORDER

This matter came before the Court on January 15, 2009, for a hearing on the plaintiffs' motion for a preliminary injunction that would enjoin defendant John Roberts, Jr., Chief Justice of the United States Supreme Court, from uttering the words "so help me God" as part of the presidential oath of office, which he is scheduled to deliver to the President-Elect during the Presidential Inaugural ceremony on January 20, 2009, as well as enjoin the remaining defendants from permitting members of the clergy from presenting an invocation and benediction as part of the ceremony. The defendants opposed the motion, and several amicus curiae submitted briefs to the Court.

Upon consideration of the plaintiffs' motion, the other written submissions presented to the Court, the applicable legal authority, the oral arguments presented by the parties and the counsel for one of the amici, and for the reasons expressed by the Court at the hearing on the motion, the Court finds that the plaintiffs have not met their burden to show that a preliminary injunction is warranted. Specifically, the Court finds that plaintiff Newdow is precluded from relitigating the issue of whether he has standing to challenge the invocation and benediction that

will be presented at the 2009 Presidential Inauguration based upon his participation in prior litigation, both before this Court and appealed to the United States Appeals Court for the District of Columbia Circuit, and before the United States District Court for the Eastern District of California and appealed to the United States Court of Appeals for the Ninth Circuit, resulting in findings that he has no standing to challenge clergy administered prayer at the Presidential Inauguration. Moreover, the Court finds that none of the plaintiffs in this case have standing to challenge the defendants' actions as pled in the complaint because they have identified no concrete and particularized injury. And, even if the plaintiffs had established such an injury, they have failed to demonstrate how the harm they allege is redressable by the relief they seek, or that the Court has any legal authority to award the relief requested. Thus, the plaintiffs have failed to show that there is a substantial likelihood that they will prevail on the merits or will suffer irreparable harm if an injunction is not issued. Furthermore, due to the filing of this action so close in time to the Inauguration, the Court finds that the balance of harms and the public interest weigh in favor of the defendants and maintaining the status quo with respect to Inaugural ceremony. Therefore, the Court finds that the plaintiffs have failed to satisfy any of the elements necessary to demonstrate their entitlement to a preliminary injunction.

Accordingly, it is hereby

ORDERED that the plaintiffs' motion seeking a preliminary injunction is **DENIED**. It is further

ORDERED that the plaintiffs shall show cause by February 23, 2009, why this Court should not dismiss this case based on the plaintiffs' lack of standing and issue preclusion as to plaintiff Newdow.

SO ORDERED this 16th day of January, 2009.

_____/s/_____
REGGIE B. WALTON
United States District Judge