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Joanna Staton, District Clerk
District Court - Bell County, TX
by Lacey Martindale , Deputy

CAUSE NO. 289,461-B

Dedra Shannon, Plaintiff, v. **Killeen Independent School District**; **Terry Delano**, **Corbett Lawler**, **Minerva Trujilo**, **Shelley Wells**, **Susan Jones**, **JoAnn Purser**, and **Marvin Rainwater**, in their official capacities as members of Killeen Independent School District Board of Trustees; **John M. Craft**, in his official capacity as Superintendent; and **Kara Trevino**, in her official capacity as principal of Patterson Middle School, Defendants	In the District Court of Bell County, Texas 146TH Judicial District

PLAINTIFF'S ORIGINAL PETITION AND APPLICATION FOR TEMPORARY RESTRAINING ORDER

Plaintiff Dedra Shannon brings this action against Defendants Killeen Independent School District; Terry Delano, Corbett Lawler, Minerva Trujilo, Shelley Wells, Susan Jones, JoAnn Purser, and Marvin Rainwater, in their official capacities as members of Killeen Independent School District Board of Trustees; John M. Craft, in his official capacity as Superintendent of the Killeen Independent School District; and Kara Trevino, in her official capacity as principal of Patterson Middle School.

DISCOVERY CONTROL PLAN

1. The plaintiff intends to conduct discovery under Level 3 of the rules set forth in Rule 190 of the Texas Rules of Civil Procedure.

PARTIES

2. Plaintiff Dedra Shannon is a clinic aide at Patterson Middle School, a school in the Killeen Independent School District. She resides at 18756 FM 2484, Killeen, Texas, 76542.

3. Defendant Killeen Independent School District (KISD) is an independent school district authorized by and constituting a political subdivision or agency of the State of Texas. KISD is a public corporation authorized by the Constitution and laws of the State of Texas, and operates public schools in the city of Killeen, Texas. Ms. Shannon requests that service of process be issued upon Defendant KISD by serving its Superintendent, John M. Craft, at the central office of KISD, 200 North WS Young Drive, Killeen, Texas, 76543-4025.

4. Defendant Terry Delano is a trustee of the Killeen Independent School District. Mr. Delano is sued in his official capacity, and Ms. Shannon requests that service of process be issued upon Mr. Delano at 514 Lobo Trail, Harker Heights, Texas, 76548.

5. Defendant Corbett Lawler is a trustee of the Killeen Independent School District. Mr. Lawler is sued in his official capacity, and Ms. Shannon requests that service of process be issued upon Mr. Lawler at 26268 FM 2670, Killeen, Texas, 76549.

6. Defendant Minerva Trujilo is a trustee of the Killeen Independent School District. Ms. Trujilo is sued in her official capacity, and Ms. Shannon requests that service of process be issued upon Ms. Trujilo at 2703 Fish Pond, Killeen, Texas, 76542.

7. Defendant Shelley Wells is a trustee of the Killeen Independent School District. Ms. Wells is sued in her official capacity, and Ms. Shannon

requests that service of process be issued upon Ms. Wells at 2115 Lakeview Loop, Killeen, Texas, 76543.

8. Defendant Susan Jones is a trustee of the Killeen Independent School District. Ms. Jones is sued in her official capacity, and Ms. Shannon requests that service of process be issued upon Ms. Jones at 100 W. Centex Expressway, Harker Heights, Texas, 76548.

9. Defendant JoAnn Purser is a trustee of the Killeen Independent School District. Ms. Purser is sued in her official capacity, and Ms. Shannon requests that service of process be issued upon Ms. Purser at 2901 E Stan Schlueter Loop, Killeen, Texas, 76543.

10. Defendant Marvin Rainwater is a trustee of the Killeen Independent School District. Mr. Rainwater is sued in her official capacity, and Ms. Shannon requests that service of process be issued upon Mr. Rainwater at 1103 Boulder Run, Harker Heights, Texas, 76548.

11. Defendant John M. Craft is the superintendent of the Killeen Independent School District. Dr. Craft is sued in his official capacity, and Ms. Shannon requests that service of process be issued upon Dr. Craft at his place of employment, the central office of KISD, 200 North WS Young Drive, Killeen, Texas, 76543-4025.

12. Defendant Kara Trevino is the principal of Patterson Middle School. Ms. Trevino is sued in her official capacity, and Ms. Shannon requests that service of process be issued upon Ms. Trevino at her place of employment at 8383 Trimmier Road, Killeen, Texas, 76542.

JURISDICTION

13. The plaintiffs' claims arise under the Texas Constitution and the Texas Civil Practice and Remedies Code. This Court, therefore, has subject-matter jurisdiction under the Texas Constitution, Article V, § 8.

STATEMENT OF FACTS

14. During the Christmas season, teachers and staff at Patterson Middle School are permitted to decorate their doors.

15. Ms. Shannon works as a clinic aide at Patterson Middle School. On Monday, December 5, 2016, Ms. Shannon decorated the door to the nurse's office with a poster that depicts a scene from "A Charlie Brown Christmas." The poster is attached to this complaint as Exhibit A.

16. The poster features a picture of Linus, a scrawny Christmas tree, and a quote from Linus that includes portions of a Bible verse. The text that appears on the poster reads as follows: " 'For unto you is born this day in the city of David a savior which is Christ the Lord. . . .' That's what Christmas is all about, Charlie Brown—Linus."

17. The poster attributes the entire quote to Linus. It does not cite the Bible and does not attribute any portion of that passage to the Bible.

18. On the afternoon of Tuesday, December 6, 2016, Patterson Middle School Assistant Principal Gary Rhiner observed the poster and told Ms. Shannon: "Personally I don't have a problem with it, but I can tell you that someone is going to make you take it down."

19. The following day, on the morning of Wednesday, December 7, 2016, Principal Trevino saw the poster and asked Ms. Shannon to either remove the quote from Linus or remove the entire poster.

20. Principal Trevino told Ms. Shannon that the poster could implicate the "separation of church and state."

21. Principal Trevino also told Ms. Shannon that the quote from Linus could "offend someone or hurt someone's feelings" and that it might "offend kids from other religions or those who do not have a religion."

22. On Wednesday, December 7, 2016, Ms. Shannon decided to remove the entire poster from the nurse's office door.

23. On Friday, December 9, 2016, the Killeen Independent School District issued a statement backing Principal Trevino's censorship of Ms. Shannon's poster. The statement is attached to this complaint as Exhibit B.

24. The school district's statement asserts that Principal Trevino's actions were proper because "employees are not permitted to impose their personal beliefs on students," and that the state's Merry Christmas Law "requires that a display not encourage adherence to a particular religion."

25. These statements indicate that school district believes that the law forbids Ms. Shannon's display and compels the school district to censor it.

26. On Tuesday, December 13, 2016, the trustees of the Killeen Independent School District met to consider whether to reverse Principal Trevino's decision to censor Ms. Shannon's poster.

27. At the meeting, Trustee Purser noted that the State's Merry Christmas law forbids displays that "include a message that encourages adherence to a particular religious belief." Tex. Educ. Code. § 29.920(c). She then said: "If this is the Merry Christmas law, I'm having trouble with seeing, because I know what my heart wants me to do, but I also know that we are tasked with following the law, so I need clearance and I cannot make a decision today until I get clarification on that piece of the law."

28. Trustee Delano said: "If we keep giving in to the politically correct culture, how long will be able to say 'Christmas' because it has the word 'Christ' in it? In my opinion, again I'm not an attorney, the poster did not

coerce anyone to believe in Christianity. All it did was state was Linus had recited, which happened to be a scripture from the Bible, but it did not coerce anyone to be a Christian. In my opinion, it's a historical, educational poster that lets people know what Christmas is about."

29. Trustee Lawler offered the following motion: "I move that the board direct the administration to study, and develop administrative guidelines and procedures, regarding the use of winter and religious displays and decorations, and to encourage our staff to use, to the fullest extent allowed by law, the name Jesus, the name God, and anything about our Christian religion, but I also recommend that no further action be taken at this time."

30. Trustee Delano asked Trustee Lawler to clarify that his motion "would mean that the poster does not go back up, is that correct?" Trustee Lawler answered: "No further action."

31. The motion carried on a 6–1 vote, with Trustee Delano voting against.

CLAIMS FOR RELIEF

32. The defendants have censored Ms. Shannon's poster out of a belief that the state's Merry Christmas law compels them to remove the poster. The Court should declare that nothing in the law compels the removal of Ms. Shannon's poster.

33. Subsection (c) of the state's Merry Christmas law forbids displays that "include a message that encourages adherence to a particular religious belief." Tex. Educ. Code. § 29.920(c). But the quotation from Linus did not "encourage" anyone to adhere to Christian religious beliefs; it simply expressed a statement uttered by Linus in "A Charlie Brown Christmas" with-

out telling or instructing others that they should adopt the Christian religion as their own.

34. Quoting a statement from a cartoon character that happens to include portions of a Bible verse is not sufficient to qualify as "encouragement" to adhere to the Christian religion under section 29.920(c), unless it is accompanied by cajoling, promises, or incentives to adhere to that belief system.

35. In censoring Ms. Shannon's poster, the defendants relied on an overbroad interpretation of section 29.920(c), and the Court should declare that nothing in the state's Merry Christmas law compels the removal of Ms. Shannon's poster.

36. The defendants have also violated state law by censoring Ms. Shannon's poster.

CAUSES OF ACTION

COUNT I: TEXAS CONSTITUTION—ARTICLE I, § 6

37. Ms. Shannon re-alleges all preceding paragraphs as if fully stated herein.

38. The defendants have deprived and continue to deprive Ms. Shannon of her rights to the free exercise of religion, as secured by article I, section 6 of the Texas Constitution, by discriminating against Ms. Shannon and by inhibiting her rights to freely exercise her religious faith.

39. Ms. Shannon has no adequate remedy at law to correct the continuing deprivation of her state constitutional rights by the defendants' actions.

COUNT II: TEXAS CONSTITUTION—ARTICLE I, § 8

40. Ms. Shannon re-alleges all preceding paragraphs as if fully stated herein.

41. The defendants have deprived and continue to deprive Ms. Shannon of her rights to free speech, as secured by article I, section 8 of the Texas Constitution, by discriminating against Ms. Shannon and by inhibiting her rights to free speech.

42. The defendants' censorship of Ms. Shannon's poster and the quote from Linus that contains a message from a religious viewpoint violates article I, section 8 of the Constitution of Texas.

43. Ms. Shannon has no adequate remedy at law to correct the continuing deprivations of her state constitutional rights by the defendants' actions.

COUNT III: TEXAS CONSTITUTION—ARTICLE I, § 3

44. Ms. Shannon re-alleges all preceding paragraphs as if fully stated herein.

45. The defendants have deprived and continue to deprive Ms. Shannon of her rights to equal protection under the law, as secured by article I, section 3 of the Texas Constitution, by discriminating against her expression solely because is religious in nature.

46. Ms. Shannon has no adequate remedy at law to correct the continuing deprivations of her state constitutional rights by the defendants' actions.

COUNT IV: TEXAS CIVIL PRACTICE & REMEDIES CODE—CHAPTER 106, DISCRIMINATION BECAUSE OF RELIGION

47. Ms. Shannon re-alleges all preceding paragraphs as if fully stated herein.

48. Section 106.001, *et seq.*, of the Texas Civil Practice & Remedies Code provides that an employee of a political subdivision of the state may not, because of a person's religion, "refuse to permit the person to use facili-

ties open to the public," "refuse to grant a benefit to the person," or "impose an unreasonable burden on the person."

49. The defendants' censorship of Ms. Shannon's poster because it contains a religious viewpoint violates this statute.

50. Ms. Shannon has no adequate remedy at law to correct the continuing deprivations of her state constitutional rights by the defendants' actions.

COUNT V: TEXAS CIVIL PRACTICE & REMEDIES CODE—CHAPTER 110, VIOLATION OF THE TEXAS RELIGIOUS FREEDOM RESTORATION ACT

51. Ms. Shannon re-alleges all preceding paragraphs as if fully stated herein.

52. Section 110.001, *et seq.*, of the Texas Civil Practice & Remedies Code provides that a "governmental agency may not substantially burden a person's free exercise of religion." The defendants' actions constitute a substantial burden on Ms. Shannon's free exercise of religion.

53. Because the defendants' policy will cause imminent harm to Ms. Shannon and there was not adequate time to provide notice, Ms. Shannon is not required to provide written notice to Defendants before commencing legal action. See Tex. Civil Practice & Remedies Code § 110.006(b).

54. Ms. Shannon has no adequate remedy at law to correct the continuing deprivations of her state constitutional rights by the defendants' actions.

DECLARATORY ACTION RELIEF

55. Ms. Shannon re-alleges all preceding paragraphs as if fully stated herein.

56. Ms. Shannon seeks a declaration from the Court, under Chapter 37 of the Texas Civil Practice and Remedies Code, that nothing in the State's

Merry Christmas law, Tex. Educ. Code. § 29.920, requires the defendant's to censor the quote from Linus in her Christmas poster.

57. Ms. Shannon seeks a further declaration that the defendants have violated state law by censoring Ms. Shannon's poster.

58. Ms. Shannon seeks the recovery of attorneys' fees under sections 37.009, 106.002(b), and 110.005(a)(4) of the Texas Civil Practice and Remedies Code.

EQUITABLE RELIEF—TEMPORARY RESTRAINING ORDER AND INJUNCTION

59. Ms. Shannon re-alleges all preceding paragraphs as if fully stated herein.

60. Ms. Shannon seeks a temporary retraining order, and a temporary and permanent injunction enjoining the defendants, their agents, employees, and all other persons acting in active concert with them or any of them from prohibiting Ms. Shannon from including religious language, messages, or viewpoints on the poster she creates on her own for use at the public school; prohibiting Ms. Shannon's private religious speech; prohibiting Ms. Shannon's free exercise of religion; and ordering the defendants to immediately cease all discriminatory actions, customs, practices and policies. This injunctive relief is requested under to sections 106.002(a) and 110.005(a)(2) of the Texas Civil Practice & Remedies Code.

ACTUAL DAMAGES

61. As a direct and proximate result of the acts and omissions of the defendants, Ms. Shannon has incurred damages in excess of the minimum jurisdictional limits of this Court.

62. Section 110.005 of the Texas Civil Practice and Remedies Code provides that plaintiffs may recover compensatory damages.

63. Ms. Shannon claims damages in such amounts as the evidence may show proper at the time of trial, in excess of the minimum jurisdictional limits of this Court, not to exceed $1,500.

ATTORNEYS' FEES

64. Ms. Shannon has been required to employ the services of the undersigned attorneys to bring this action. By virtue of the defendants' conduct, an award of reasonable attorneys' fees to Ms. Shannon is recoverable under sections 37.009, 106.002(b), 110.005(a)(4), of the Texas Civil Practice & Remedies Code.

65. Ms. Shannon requests a temporary restraining order and a temporary injunction until final hearing, at which time a permanent injunction should be granted.

DEMAND FOR JUDGMENT

Ms. Shannon respectfully requests the following relief:

(1) A temporary restraining order, a temporary injunction, and a permanent injunction, restraining and enjoining the defendants and their agents and any persons acting in concert with them from any further actions intended to disrupt or prevent Ms. Shannon from displaying her poster.

(2) Judgment against the defendants, for Ms. Shannon's damages in an amount in excess of the jurisdictional limits of this Court;

(3) Reasonable attorneys' fees

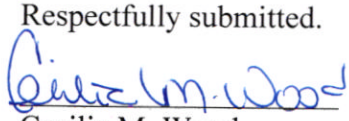
(4) Pre-judgment interest as allowed by law;

(5) Post-judgment interest as allowed by law;

(6) All court costs; and

(7) All other relief that the Court deems just and proper.

Respectfully submitted.

By: 

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Counsel for Plaintiff

Dated: December 14, 2016

Exhibit A

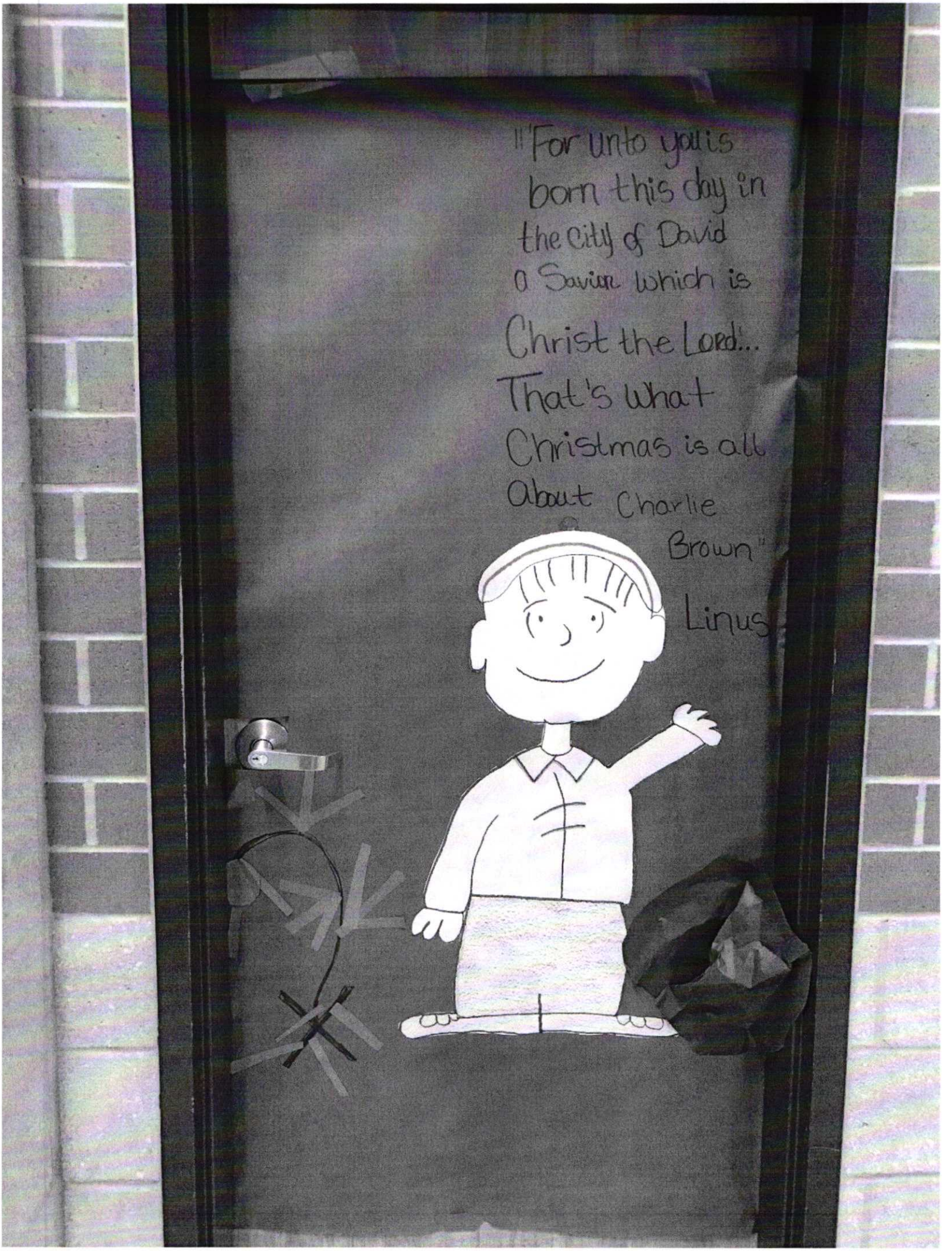

"For unto you is
born this day in
the City of David
a Savior which is
Christ the Lord...
That's what
Christmas is all
about Charlie
Brown"
Linus

Exhibit B

Press Release
Killeen Independent School District
December 9, 2016
For Immediate Release

The Killeen ISD administration has reviewed the decision made in regards to the Christmas door decoration, and supports the actions taken by the Principal in requesting that the reference to the Bible verse be removed. Our employees are free to celebrate the Christmas and Holiday season in the manner of their choosing. However, employees are not permitted to impose their personal beliefs on students. The display in question was a six-foot-plus tall door decoration in the main hallway of the school building, and included a reference to a Bible verse covering much of the door. Upon review, it is clear that this display was not in keeping with the Merry Christmas Bill (House Bill 308), which requires that a display not encourage adherence to a particular religion.

The Killeen Independent School District celebrates and embraces the diverse cultures and values of our students and employees. We remain proud of our diversity and the community which we serve.

Killeen Independent School District

STATE OF TEXAS ( )

COUNTY OF BELL ( )

Affidavit in Support of Ex Parte Relief

BEFORE ME, the undersigned Notary Public, on this day personally appeared Dedra Shannon, who, being by me duly sworn on her oath deposed and said:

"My name is Dedra Shannon. I am a competent adult over the age of eighteen. I reside in Bell County. I am employed by the Killeen Independent School district and I work as a clinic aide in the nurse's office at Patterson Middle School in the Killeen Independent School District. I am the Plaintiff in the foregoing cause.

"On Monday, December 5, 2016, I placed a poster on the door of the nurse's office that includes a drawing of a scene and symbols from "A Charlie Brown Christmas" movie. The poster includes a quote, delineated by quotation marks, by Linus, about the religious history and story of Christmas; a drawing and cut-out of Linus directly under the quote, and what's been referred to as the "scrawny Christmas tree," placed next to Linus. See attachment/Exhibit.

"On the afternoon of Tuesday, December 6, 2016, Patterson Middle School Assistant Principal Gary Rhiner observed my poster and said this to me about the poster: "personally I don't have a problem with it, but I can tell you that someone is going to make you take it down." On the following day, the morning of Wednesday, December 7, 2016, Patterson Middle School Principal Kara Trevino observed my poster and ordered that I either remove the quote from Linus from my poster or take down the entire poster. Kara Trevino said the portion of my poster with the Linus quote had to be removed because of an issue of "separation of church and state." Kara Trevino also said that the portion of my poster with the Linus religious history quote could "offend someone or

hurt someone's feelings" and that the poster had to come down "because it might offend kids from other religions or those who do not have a religion." Kara Trevino never made any comment to me about the state law known as the Merry Christmas Law. No one from the Killeen Independent School District said anything to me about the state law known as the Merry Christmas Law. I decided on Wednesday, December 7, 2016 to remove the entire poster from the nurse's office door.

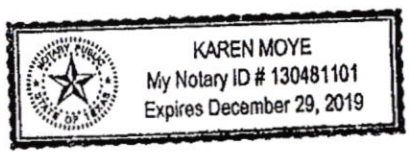
"Other school employees were permitted to decorate their doors and/or rooms. My poster was censored for content only. No other employee was required to remove his or her decorations. All other decorations except mine continue to be displayed. The fact that I am the only employee that is unable to creatively express my individual perceptions is highly offensive, has hurt my feelings, and has caused me to suffer harm. I fear retribution if I rehang my Linus poster for the remainder of the season.

"Additionally, there are other school events, holidays, and celebrations that will continue to occur throughout the remainder of this school year and the course of my employment with Killeen Independent School District. I fear that unless this Court enjoins Killeen Independent School District, as requested in my pleadings, I will suffer additional harm.

"I have read the statements contained herein. They are true and correct based on my personal knowledge.

SIGNED on the 14th day of December, 2016.

DEDRA SHANNON 12/14/16

SIGNED under oath before me on the 14th day of December, 2016.

Notary Public in and for the
State of Texas