

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

CYNTHIA SIMPSON,)
)
 Plaintiff,)
) Civil Action No.
 v.)
)
 CHESTERFIELD COUNTY BOARD OF)
 SUPERVISORS,)
)
 Defendant.)

COMPLAINT

INTRODUCTION

1. In this action under 42 U.S.C. § 1983, plaintiff Cynthia Simpson challenges the Chesterfield County Board of Supervisors’ refusal to add her name to a list of local clergy who are invited to deliver prayer before Board of Supervisors meetings. Such refusal discriminates against plaintiff solely on the basis of her religion, in violation of the First and Fourteenth Amendments to the United States Constitution.

JURISDICTION

2. This action arises under the Constitution of the United States and 42 U.S.C. § 1983. This Court has jurisdiction pursuant to Article III of the United States Constitution and 28 U.S.C. § 1331. Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202.

PARTIES

3. Plaintiff Cynthia Simpson is a resident of Chesterfield County, Virginia.

4. Defendant Chesterfield County Board of Supervisors (hereinafter “Board of Supervisors” or “Board”) is the governing body of Chesterfield County, Virginia. At all times relevant, the Board of Supervisors acted under color of state law.

FACTUAL ALLEGATIONS

5. Cynthia Simpson is a member of the Wiccan religion, a religion characterized by respect for the earth, nature and the cycle of the seasons and by the imperative to do no harm to others. The United States Army recognizes Wicca as a bona fide religion and provides guidance for chaplains working with Wiccans.

6. Simpson is a leader in her religious community in Chesterfield County.

7. Each Chesterfield County Board meeting includes an invocation.

8. The invocations are delivered by various local religious leaders, who are invited from a list maintained by Chesterfield County.

9. In the years 2000, 2001 and 2002, all religious leaders who delivered an invocation at Board meetings were from Christian denominations, with the sole exception of the January 12, 2000 meeting, at which invocations were given by two Christian ministers and one rabbi.

10. On August 22, 2002, Ms. Simpson called the Chesterfield County Clerk and requested to be added to the County's list of persons invited to give invocations.

11. Ms. Simpson subsequently received a letter dated September 12, 2002 from Steven L. Micas, the County Attorney for Chesterfield County. In relevant part, the letter stated:

Chesterfield's non-sectarian invocations are traditionally made to a divinity that is consistent with the Judeo-Christian tradition. Based upon our review of Wicca, it is neo-pagan and invokes polytheistic, pre-Christian deities. Accordingly, we cannot honor your request to be included on the list of religious leaders that are invited to provide invocations at the meetings of the Board of Supervisors.

12. The county's treatment of Ms. Simpson amounts to the marking of Wicca with an official badge of dishonor and represents overt, official governmental disapproval of a religious tradition.

13. Individual members of the Board of Supervisors have demonstrated ignorance and prejudice toward Wicca by publicly ridiculing that faith in a ways they would never do with respect to other, favored religions.

14. On October 5, 2002, an article entitled “Chesterfield Gives Local Witch the Broom” appeared in the *Richmond Times-Dispatch*. In that article, Supervisor Renny B. Humphrey was quoted saying “I hope she’s a good witch like Glinda” and “There is always Halloween.”

15. The article also quoted Board Chairman Kelly E. Miller saying “It is a mockery. It is not any religion I would subscribe to. There are certain places we ought not to go, and this is one of them.”

16. On October 9, 2002, counsel for Ms. Simpson wrote a letter to the Board of Supervisors, stating that the refusal to allow Ms. Simpson to give an invocation was unconstitutional and requesting them to reverse their decision or, in the alternative, to eliminate the prayer altogether.

17. In a further exchange of letters with Mr. Micas, Ms. Simpson’s attorney attempted in good faith to resolve this matter without resort to litigation. Nonetheless, the Board of Supervisors would not change its position and refused Ms. Simpson’s offer of a face-to-face discussion.

18. At no time did Mr. Micas or any member of the Board of Supervisors ask Ms. Simpson any questions about her religious beliefs or the nature of the prayer she intended to deliver.

19. If Ms. Simpson were invited to give a prayer at a Board of Supervisors meeting, the prayer would not invoke any specific deity, but would reflect respect for nature by speaking of natural phenomena such as the change of seasons.

CAUSES OF ACTION

COUNT I

Violation of the Establishment Clause of the First Amendment

20. By inviting Christian clergy to deliver invocations at Board meetings while refusing to allow Ms. Simpson to do so, the Board of Supervisors endorses the Christian religion and/or the precepts of Judeo-Christian religions.

21. The defendant's actions in inviting Christian clergy to deliver invocations while refusing to allow Ms. Simpson to do so have the purpose and effect of advancing the Christian religion and/or the precepts of Judeo-Christian religions.

22. The defendant's actions violated and continue to violate Ms. Simpson's rights under the Establishment Clause of the First Amendment to the United States Constitution.

COUNT II

Violation of the Free Exercise Clause of the First Amendment

23. By refusing to allow Ms. Simpson to deliver an invocation at a Board of Supervisor's meeting, the defendant discriminated and continues to discriminate against Ms. Simpson solely on the basis of her religion.

24. The defendant's actions in excluding Ms. Simpson relegates her religion and other minority religions to a disfavored status in Chesterfield County and reveals hostility toward such religions on the part of the County.

25. The defendant's actions violated and continue to violate Ms. Simpson's rights under the Free Exercise Clause of the First Amendment to the United States Constitution.

COUNT III

Violation of the Free Speech Clause of the First Amendment

26. By inviting clergy of various Christian denominations to deliver an invocation at Board meetings, the defendant has created a limited public forum.

27. The defendant has excluded Ms. Simpson from its limited public forum solely on the basis of her religious viewpoint.

28. The defendant's actions violated and continue to violate Ms. Simpson's right to freedom of speech under the First Amendment to the United States Constitution.

COUNT IV
Violation of the Equal Protection Clause of the Fourteenth Amendment

29. Ms. Simpson is similarly situated to other local clergy whom the defendant has invited to deliver invocations at Board of Supervisors meetings.

30. The defendant has excluded Ms. Simpson from delivering a prayer at Board meetings solely on the basis of her religion.

31. The defendant's refusal to allow Ms. Simpson to deliver an invocation is not narrowly tailored to achieve a compelling governmental interest.

32. No legitimate government interest justifies the defendant's refusal to allow Ms. Simpson to participate on an equal basis with other local clergy in the delivery of invocations at Board of Supervisors meetings.

33. The defendant's actions violated and continue to violate Ms. Simpson's right to equal protection of the laws under the Fourteenth Amendment to the United States Constitution.

REQUEST FOR RELIEF

Plaintiff respectfully requests that this Court grant the following relief:

A. A declaration that the defendant's practice of inviting Christian religious leaders to deliver prayers at Board meetings while refusing to allow Ms. Simpson to do so solely on the basis of her religion violates her rights under the First and Fourteenth Amendments to the United States Constitution;

B. An injunction requiring the defendant to allow Ms. Simpson and members of other minority religions in Chesterfield County to deliver prayers at Board meetings on an equal basis with all other local religious leaders, or, in the alternative, to cease its practice of having prayers at Board meetings;

C. Plaintiff's costs and attorney's fees pursuant to 42 U.S.C. § 1988; and

D. Such other orders and further relief as this Court deems just and equitable.

Dated: December 6, 2002.

Respectfully Submitted,

CYNTHIA SIMPSON

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