

Friday, November 3, 2006

TESTING THE FAITH

Navy setting up 'civic religion,' lawsuit charges

Complaint alleges embattled chaplain punished for praying 'in Jesus name'

Posted: November 3, 2006
1:00 a.m. Eastern

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A lawsuit has been filed against the U.S. Navy on behalf of Chaplain Gordon James Klingenschmitt by a public interest law firm whose founder says the basic issue to be determined is whether the government can control how people pray.

"There's a Unitarian system of religion that's aimed at Christians," John Whitehead, founder of the [The Rutherford Institute](#), told WND.

"It boils down to that. We're seeing it all across the country, with council prayers, kids wanting to mention Jesus. What's going on here is it's generally a move in our government and military to set up a civic religion."

"I think the Supreme Court's going to have to look at the idea of can the government in any of its forms tell people how to pray, set up a basic religion and say you can only do it this way," he said.

The history of court decisions through the decades, he said, has been that the government has no business telling people how to pray.

(Story continues below)



Lt. Gordon James Klingenschmitt

"But that's what they're doing here, in every venue we see," he said. "Should Klingenschmitt be forced to abandon his religion because someone might be offended?"

Klingenschmitt is the chaplain who appeared and delivered a public prayer "in Jesus name" at a White House rally last winter and was court-martialed for that. The Navy convicted him of failing to follow a lawful order because his superior didn't want him praying "in Jesus name."

He was given a suspended fine of \$3,000 by the military court. Then in a hearing on his new lawsuit this week, Judge Henry H. Kennedy, of U.S. District Court in Washington D.C., denied Klingenschmitt's request for a temporary restraining order that would prevent the Navy from separating him from the service. However, a ruling still is expected on the larger issues of a preliminary injunction and summary judgment, as well as a full jury trial.

Klingenschmitt also told WND that his lawyers are seeking about 4,000 pages of e-mails the Navy has that refer to him or the case.

Two events followed the court-martial, including the signing into law of a piece of federal legislation ordering the Navy to rescind its orders that all prayers be "non-sectarian," and the Navy launching proceedings to dismiss Klingenschmitt from the Navy.

The lawsuit questions whether the government has the right to establish a "Unitarian" religion such as was proposed by Navy rules.

Whitehead said regimes always try first to make religion a "nebulous" thing, which is easier to control. Then it becomes anesthetized, then privatized, he said.

"Someone with an authentic religion is going to object (and be) targeted for punishment," he said.

"The Navy's ongoing practice of promoting the one non-sectarian, Unitarian, Pluralistic religion and discouraging public expression of diverse faiths and religions violates the Establishment Clause of the First Amendment to the United States Constitution because, among other things, the only purpose or the primary purpose is to promote the one non-sectarian, Unitarian, Pluralistic religion over all other religions and it constitutes government preference for certain specific religious tenets and modes of worship over other religious tenets and modes of worship," the lawsuit says.

Even today, chaplains who pray publicly "in Jesus name" are defamed by official Navy lectures as "insensitive or incompetent," the lawsuit said.

Klingenschmitt's proposed "separation" from the Navy comes on Navy claims that he lost his endorsement from a religious organization. The lawsuit, however, said that's incorrect, because

Klingenschmitt gained a new endorsement from the Full Gospel Churches before his previous endorsement from the Evangelical Episcopal Church lapsed.

The Navy's practice of censoring Christian prayers "violates the U.S. Constitution as well as Chaplain Klingenschmitt's First and Fourteenth Amendment rights," the lawsuit, filed in the U.S. District Court in Washington, D.C., said.

"The Constitution is clear about the fact that the government is prohibited from establishing a religion," Whitehead said. "However, by directing and controlling the content of prayers offered by military chaplains, the military is essentially establishing its own civic religion in violation of the Constitution's Establishment Clause."

A 1998 memo, and then a later instruction of the Secretary of the Navy, said "religious elements for a command function, absent extraordinary circumstances, should be non-sectarian in nature."

Klingenschmitt said his conscience required him to pray "in Jesus name," and the federal law that chaplains "may conduct public worship according to the manner and forms of the church of which he is a member" gave him that right.

But the lawsuit said the Navy gave him "adverse fitness reports, reprimands, and ... court-martial because of his objection to these directives."

Now the Navy is trying to get rid of him entirely because of his "objection to Navy policies that seek to establish a civic religion for the Navy in violation of the Establishment Clause."

Earlier, Klingenschmitt had told WND that it was a "tremendous victory" for Congress to approve and the president to sign legislation ordering the Navy to drop its orders for "non-sectarian" prayers. But the lawsuit notes they still apparently are being enforced.

As WND reported, a jury of U.S. Naval officers Sept. 14 recommended a reprimand and a \$250 fine per month for a year for Klingenschmitt, who insisted an appearance in front of the White House in which he prayed "in Jesus' name" was a bona fide religious event and he had written permission from his commander to wear his uniform at such events.

But the military judge ruled wearing his uniform during "public worship" is allowed only inside a chapel on Sunday, basing his decision on the policy addressed by Congress.

The Navy chaplain, who went without food for 18 days to protest the service's prayer policy, submitted a whistleblower complaint to Sen. Hillary Clinton and other lawmakers in June, charging top naval officials with violating the Constitution by affirming the actions of officers who, he said, barred him from praying in Jesus' name and quoting certain Bible passages

during an optional worship service.

His court-martial centered on Klingenschmitt's participation in a March 30 event with former Alabama Chief Justice Roy Moore in front of the White House.

Klingenschmitt, who then was endorsed by the Evangelical Episcopal Church – which split from the liberal mainline denomination in the 1990s – insisted he was being punished by his superiors for praying in Jesus' name, in uniform, at the event.

As WND reported, in January Klingenschmitt received a letter from his commanding officer recommending he not wear his uniform at an earlier White House event, but not prohibiting it.

"If, despite my recommendation, you choose to participate in this (White House) event in uniform, you should limit your participation, while in uniform, to the 'bona fide religious service or observance,'" stated the letter,

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