

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:14-cv-03025-CMA-CBS

CHASE WINDEBANK,

Plaintiff,

vs.

ACADEMY SCHOOL DISTRICT #20, Colorado Springs, Colorado;
KOLETTE BACK, in her official capacity as Principal of Pine
Creek High School; and JAMES LUCAS, in his official capacity as
Assistant Principal of Pine Creek High School,

Defendants.

**UNOPPOSED MOTION TO WITHDRAW
PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION [DKT 10]**

Now comes Plaintiff Chase Windebank, by and through counsel, and hereby moves this Court to withdraw Plaintiff's Motion for Preliminary Injunction [Dkt 10]. In support of the motion, Plaintiff would show as follows:

Plaintiff filed this lawsuit challenging Defendants' prohibition against Plaintiff and other students gathering for religious discussion and prayer during Seminar and other free time during the school day. The lawsuit is premised on Defendants' policy and practice of barring Plaintiff from praying with his classmates at any time during the school day, which they enforced by shutting down Plaintiff's informal prayer gatherings which had been occurring non-disruptively for the previous three years during Seminar time. Defendants confirmed this religious discriminatory policy and practice by stating in a letter dated October 9, 2014 and sent in response to Plaintiff's demand letter, that

Plaintiff could only pray with his fellow students “during non-instructional time, that is before 7:45 a.m. when classes begin, and after 2:45 p.m., when classes end for the day.” See Exhibit I to Plaintiff’s Motion for Preliminary Injunction [Dkt 10-10].

On November 24, 2014, Plaintiff filed his Motion for Preliminary Injunction seeking a court order “prohibiting Defendants ... from enforcing their policy and practice of barring Chase and other students from gathering informally to engage in religious speech during the open time of Seminar, lunch, and other open periods during the school day and expressly limiting such religious speech to before or after school.” Dkt 10 at 1.

In their Response to Plaintiff’s Motion for Leave to Amend Complaint, Defendants informed the Court that they have “determined not to include a Seminar period in class schedules next year.” Dkt 35 at 3. Defendants have also lifted their ban on prayer during the school day, confirming that “**Plaintiff and his fellow students are welcome to sit together in the cafeteria during lunch ... to pray and discuss topics of religious interest.**” *Id.* at 8 (emphasis added).

Based upon Defendants’ acknowledgement that all students at Pine Creek High School have the right to join together for prayer during free times at school such as lunch, and Defendants’ recent decision to cancel the Seminar period for 2015-2016, Plaintiff hereby moves to withdraw his motion for preliminary injunction.

Plaintiff’s Counsel contacted Defendants’ Counsel on May 29, 2015, who stated that Defendants do not oppose this motion.

Respectfully submitted this the 29th day of May, 2015.

Attorneys for Plaintiffs:

s/ Jeremy D. Tedesco

Jeremy D. Tedesco (AZ Bar No. 023497)
Jordan W. Lorence (MN Bar No. 0125210)
ALLIANCE DEFENDING FREEDOM
15100 N. 90th Street
Scottsdale, AZ 85260
(480) 444-0020
(480) 444-0028 (facsimile)
jtedesco@alliancedefendingfreedom.org
jlorenc@alliancedefendingfreedom.org

David A. Cortman (GA Bar No. 188810)
J. Matthew Sharp (GA Bar No. 607842)
ALLIANCE DEFENDING FREEDOM
1000 Hurricane Shoals Road, NE
Suite D-1100
Lawrenceville, GA 30043
(770) 339-0774
(770) 339-6744 (facsimile)
dcortman@alliancedefendingfreedom.org
msharp@alliancedefendingfreedom.org

Michael J. Norton (CO Bar No. 6430)
ALLIANCE DEFENDING FREEDOM
7951 E. Maplewood Avenue, Suite 100
Greenwood Village, CO 80111
(720) 689-2410
(303) 694-0703 (facsimile)
mjnorton@alliancedefendingfreedom.org

AFFIDAVIT OF SERVICE

I hereby certify that on May 29, 2015, I electronically filed the foregoing with the Clerk of Court using the CM/ECF System which will send notification of such filing to the following:

Robert J. Zavaglia, Jr.
Treece Alfrey Musat P.C.
633 17th Street, Suite 2200
Denver, CO 80202
zavalgia@tamlegal.com

s/ Jeremy D. Tedesco
Jeremy D. Tedesco (Arizona Bar No. 023497)
ALLIANCE DEFENDING FREEDOM
15100 N. 90th Street
Scottsdale, AZ 85260
(480) 444-0020
(480) 444-0028 (facsimile)
jtedesco@alliancedefendingfreedom.org
Counsel for Plaintiff