

IN THE
Supreme Court of the United States

ELÉONORE GRIGGS,
Petitioner,
v.

MEGHAN ASHLYN,
CHAIR OF THE CITY OF DOOLEY
SCHOOL BOARD
Respondent.

ON WRIT OF CERTIORARI FOR THE
UNITED STATES COURT OF APPEALS
FOR THE THIRTEENTH CIRCUIT

TRANSCRIPT OF THE RECORD
2019 Civil Rights and Liberties Moot Court Competition

Emory University School of Law
13th Annual Civil Rights and Liberties
Moot Court Competition
October 18 – October 20, 2019
Atlanta, Georgia

Instructions

1. Do not cite to any case that was decided after the date in which certiorari was granted in this case (August 22, 2019).
2. Assume, unless otherwise noted in the Record, that all motions, defenses, and appeals were timely filed in accordance with the Federal Rules of Civil Procedure and that both issues may be litigated together in the same case.
3. Assume, for the purposes of your brief, that Petitioner, Eléonore Griggs, has standing to bring her claim before the Court, and that Meghan Ashlyn is an appropriate Respondent.
4. Assume that the facts discussed in the District Court and Thirteenth Circuit Court of Appeals opinions are drawn from the record and are thus accurate.
5. Assume that there are no procedural issues in the case or the decisions below.
6. Assume no qualified immunity analysis needs to be addressed for purposes of this competition.
7. For the purposes of this competition, assume the LinkedIn website functions as described herein. For this competition, do not discuss any aspect of the LinkedIn website's functionality that is not described or discussed herein.
8. Questions or clarifications should be directed to the Co-Directors of the Civil Rights and Liberties Moot Court Competition. All such inquiries should be emailed with the subject "Attn: 2019 CRAL Co-Directors" to emorymootcourt@gmail.com by September 11, 2019, by 11:59 pm EDT.

**IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRTEENTH CIRCUIT**

ELÉONORE GRIGGS,)	
)	
Plaintiff - Appellant,)	
)	
v.)	Docket No. 19-3301
)	
MEGHAN ASHLYN,)	
Chair of the City of Dooley)	
School Board,)	
)	
Defendant - Appellee.)	

OPINION AND ORDER

EPPS, Circuit Judge, delivered the opinion of the Court, joined by Chief Judge BAYOT. WEISS, Circuit Judge, filed a dissenting opinion.

I. INTRODUCTION

This case presents two issues: first, whether the City of Dooley School Board’s invocations violate the Establishment Clause of the First Amendment, and second, whether the Chair of the City of Dooley School Board, Meghan Ashlyn, violated the First Amendment by blocking a constituent, Eléonore Griggs, on LinkedIn. The District Court for the District of Emory answered both in the negative and granted Ms. Ashlyn’s motion for summary judgment. For the reasons stated below, we **AFFIRM**.

II. DISCUSSION

A. Factual Background

The City of Dooley has ten public schools in its school system, all of which are governed and overseen by the City of Dooley School Board (“the Board”). The Board includes five elected adult members, all of whom are residents of the City of Dooley. One Board member is elected as the Chair of the Board, and Meghan Ashlyn currently holds this position.

The Board holds monthly meetings in the auditorium of Miss Jean High School, one of the schools within the City of Dooley School District. These meetings are livestreamed on the School District’s website and also made available on that website within a few days after the meeting. Students regularly attend the Board meetings for a variety of reasons. First, the Board conducts disciplinary and readmission hearings at its meetings, requiring students who are subject to those hearings to attend. Students who do not appear for their hearings are automatically disciplined by the Board, typically by suspension or community service. Second, the Board occasionally takes time at its meetings to recognize students for their academic, extracurricular, and civic

achievements. The recognized students are generally expected to attend. Third, the Board encourages City of Dooley teachers to get students involved in school governance, so students might attend Board meetings for class.

City of Dooley School Board Policy 210 requires the Board to open its meetings with an invocation. Under the policy, the invocation must be in the form of a meditation. Ms. Ashlyn advocated for this policy in order for the Board to have more productive meetings with less conflict. Also, Ms. Ashlyn practices meditation herself, and she thought City of Dooley residents would benefit from more mindfulness. If a scheduled invocation leader cancels, Ms. Ashlyn leads the invocation.

Mr. Richard Hammond is a Buddhist monk and serves as the leader of the Dooley Monastery. He leads meditation sessions at the Dooley Monastery. The majority of these sessions are open to the public. Mr. Hammond has given the invocation for the Board meetings seven times over the past two years. At least four other monks from the Dooley Monastery have given invocations at Board meetings since Policy 210 was enacted.

The Board invited Mr. Hammond to again give the invocation at the May 14, 2018, Board meeting. After commencing the meeting, Ms. Ashlyn told the audience to “pay close attention to the words and directions of Mr. Hammond because this man brings the peace we all need in our lives.” Mr. Hammond began by reciting a traditional Buddhist mantra followed by a series of breathing exercises. At the close of the meditation, Ms. Ashlyn thanked Mr. Hammond for being “a constant supporter of the Board’s mission to ensure the emotional and mental health of our community.”

Eléonore Griggs, a local City of Dooley resident, attended the May 14, 2018, Board meeting with her twelve-year-old daughter Jennifer, a middle-school student at one of the City of Dooley schools. Ms. Griggs and Jennifer regularly go to Board meetings. Ms. Griggs is a devout Christian and considers Buddhism to be a “minor religion” in the City of Dooley—she believes practicing meditation conflicts with her faith. Mr. Hammond’s invocation upset Ms. Griggs so much that she made Jennifer leave the auditorium as soon as he began speaking. However, Ms. Griggs remained in the auditorium for the entire meeting. During the public comment portion, she accused the Board of attempting to promote Buddhism among the parents and students—as she phrased it, “drag them away from the faiths of their families.”

Next, Ms. Griggs voiced her concerns on LinkedIn, a social networking site focused on professional networking. LinkedIn allows its users to create their own networking profile page. A user’s LinkedIn profile typically contains information about his or her education, career, and qualifications. Users often post articles, job updates, and other professional information, and these types of activity usually can be seen on a user’s page. Users can request “connections” with other users, but these “connections” do not form until the receiving party accepts the request. Users can interact with each other on the site, including commenting on each other’s posts. However, the ability to comment on a user’s post is determined by the user-controlled privacy settings.

Ms. Ashlyn created a LinkedIn profile before she was elected to the Board, and she has used it actively since creating it. Today, her LinkedIn profile lists two employment positions: (1) Chair of the Board and (2) co-owner of Amicus Auto Shop. Ms. Ashlyn lists her personal contact information on her profile page but does not include her official City of Dooley contact information.

Ms. Ashlyn regularly invites people to “connect” with her on LinkedIn. She has amassed more than 1,000 connections, including many citizens of the City of Dooley and, for a time, Ms. Griggs. Ms. Ashlyn often passes out business cards with a link to her LinkedIn page before and after Board meetings. It is her practice to accept “connection” requests from any city resident. Because of Ms. Ashlyn’s privacy settings, only users with whom she has a “connection” can view and comment on her posts. She sometimes posts the minutes from Board meetings, including the links to those minutes on the School District’s website. On those posts, Ms. Ashlyn occasionally responds to questions about Board matters left in the comments.

On May 13, 2018, Ms. Ashlyn posted the Board meeting agenda for the next day’s meeting on her LinkedIn page. On May 16, 2018, Ms. Griggs commented on Ms. Ashlyn’s post: “Rejection of the only real God is ruining our schools. Anyone who supports this mess is doomed to suffer forever. Shame!” Ms. Ashlyn deleted that comment immediately. However, Ms. Griggs commented on the same post three additional times, including one that stated: “Meditation belongs in monasteries, not our schools!” Frustrated with the activity, Ms. Ashlyn again deleted Ms. Griggs’s comments. Ms. Ashlyn then removed her connection with Ms. Griggs, but also used LinkedIn’s blocking feature to block Ms. Griggs from her account. As a result, Ms. Griggs could no longer view or comment on her posts.¹ If Ms. Griggs logged out of her personal account, she could view only Ms. Ashlyn’s name, profile picture, and current employer, which anyone can see regardless of being one of Ms. Ashlyn’s connections.

Ms. Griggs brought the present action under 42 U.S.C. § 1983 against Ms. Ashlyn in her official capacity as Chair of the Board.² Ms. Griggs alleges that Ms. Ashlyn violated the Establishment Clause by permitting the meditation-based invocations and violated her right to free expression by blocking her on LinkedIn. Ms. Griggs seeks injunctive and declaratory relief on both causes of action. The District Court for the District of Emory granted summary judgment for Ms. Ashlyn, and Ms. Griggs now appeals that judgment. We review the grant of summary judgment *de novo*, applying the same legal standard as the District Court. *Johnson v. Taylor*, 149 F.4d 598, 612-13 (13th Cir. 2019).

¹ Ms. Griggs could potentially see Ms. Ashlyn’s posts if one of Ms. Ashlyn’s remaining “connections,” with whom Ms. Griggs was connected, “shared” one of Ms. Ashlyn’s posts. However, those posts are essentially duplicated on another user’s page, placing them beyond Ms. Ashlyn’s control and outside the scope of this opinion.

² Ms. Ashlyn conceded below that an action under 42 U.S.C. § 1983 is cognizable against her as a local official in her official capacity and that the City of Dooley does not enjoy sovereign immunity from such actions.

B. The Board’s Invocation Practice Does Not Violate the Establishment Clause.

The Establishment Clause prohibits any state from making any law “respecting an establishment of religion.” U.S. Const. amend. I. As the District Court noted, this case requires a two-fold discussion of the Establishment Clause.

First, the District Court found that the Establishment Clause was not even triggered as meditation is neither a religious nor a non-religious practice. The District Court relied on *American Legion v. American Humanist Ass’n*, 139 S. Ct. 2067 (2019), to reach that conclusion. We agree and follow the Supreme Court’s clear directive that historically religious practices can and do evolve over time. But this Court need not explore this issue any further as the second Establishment Clause question addressed by the District Court is outcome determinative for this Court’s decision.

Second, assuming that meditation was prayer, the District Court considered whether invocations in the form of meditation violated the Establishment Clause. “The key question... is whether this case is essentially more a legislative-prayer case or a school-prayer matter.” *Am. Humanist Ass’n v. McCarty*, 851 F.3d 521, 526 (5th Cir. 2017). We find this to be a legislative-prayer case, and one that falls within the legislative-prayer exception outlined in *Marsh v. Chambers*, 463 U.S. 783 (1983), and reaffirmed in *Town of Greece, N.Y. v. Galloway*, 572 U.S. 565 (2014).

The Board meetings are not a school, classroom, or graduation—they are a legislative session. The invocation leader directs his or her invocation to the Board, not the students in attendance. The dissent argues that *Freedom From Religion Foundation, Inc. v. Chino Valley School District Board of Education*, 896 F.3d 1132 (9th Cir. 2018), should guide our analysis. But unlike that case, no student representative sits on the Board. Put simply, the coercive factors that would require us to treat this as a case of school prayer do not exist here.

This is a legislative-prayer case, which requires that we apply the *Marsh* legislative-prayer test. We agree with and adopt in its entirety the District Court’s analysis and application of the *Marsh* exception. Thus, we hold that the Board’s invocation practice does not violate the Establishment Clause and affirm the District Court’s grant of summary judgment for Ms. Ashlyn.

C. Ms. Ashlyn Did Not Violate the First Amendment When She Blocked Ms. Griggs on LinkedIn.

Ms. Griggs next alleges that Ms. Ashlyn violated her right to free expression under the First Amendment by removing her comments on Ms. Ashlyn’s LinkedIn post and blocking her as a LinkedIn connection. To prevail, Ms. Griggs must demonstrate (1) deprivation of a constitutional right and (2) action under color of state law.

First, Ms. Griggs must show that Ms. Ashlyn’s actions deprived her of her constitutional right to free expression. A government may restrict speech that occurs on property it controls, but the permissible extent of such restrictions depends on the nature of the property. *See Int’l Soc’y for*

Krishna Consciousness v. Lee, 505 U.S. 672, 678-79 (1992). A traditional public forum, such as a property which “by long tradition or government fiat” is “devoted to assembly and debate,” is where speakers enjoy the greatest protection, and government exclusions are subject to the highest scrutiny. *Id.* at 677 (internal quotation omitted). Second, a designated public forum is created by the government when it opens a nontraditional public forum for public discourse. *Id.* Third, a nonpublic forum is where the government may limit access so long as its restrictions are reasonable. *Id.* at 677-78. In all categories of government fora, viewpoint discrimination is prohibited. *Pleasant Grove City v. Summum*, 555 U.S. 460, 469-70 (2009).

The question of whether a social media page constitutes a government-created forum is one of first impression in this Circuit. In *Knight First Amendment Inst. at Columbia Univ. v. Trump*, 928 F.3d 226, 237 (2d Cir. 2019), the Second Circuit held that the President created a public forum on his Twitter account. According to that court, he did so by intentionally opening the account for public discussion when he “repeatedly used the Account as an official vehicle for governance and made its interactive features accessible to the public without limitation.” *Id.* Similarly, the Fourth Circuit held that the interactive portion of a Facebook page for the chair of a county board of supervisors is a public forum. *Davison v. Randall*, 912 F.3d 666, 688 (4th Cir. 2019).

We harbor significant doubt as to whether Ms. Ashlyn’s LinkedIn page is a forum at all. Ms. Ashlyn continues to exercise discretion over those with whom she connects, controlling who can access the page’s content, and retaining a personal character and purpose for the page. However, viewing the facts in the light most favorable to the non-moving party, we conclude that Ms. Ashlyn’s LinkedIn page is a forum, albeit a nonpublic one. This page is far from a traditional public forum, and permitting some limited discourse is not enough to create a designated public forum. Accordingly, we will treat Ms. Ashlyn’s LinkedIn profile page as a nonpublic forum.

Access to a nonpublic forum may be restricted, provided the restrictions are not the result of impermissible viewpoint discrimination. If, for instance, Ms. Ashlyn wished to limit access to residents of the City of Dooley or adults over 18 years of age, it would be well within her discretion to do so because these restrictions are not based on viewpoint. There is no dispute, however, that her exclusion of Ms. Griggs was based on viewpoint.

Next, Ms. Griggs must show that being blocked by Ms. Ashlyn on LinkedIn was a state action. There is no single test for identifying state action; rather, courts consider the totality of the circumstances. *Id.* at 679-80. In *Lansing v. City of Memphis*, 202 F.3d 821, 828-30 (6th Cir. 2000), the Sixth Circuit concluded that the action of removing a preacher from a public festival did not meet either the public function test or state compulsion test for state action. Another widely utilized test is the nexus test. Under this test, an action has a sufficient nexus with the state to be considered a state action when it is “linked to events which arose out of [one’s] official status.” *Davison*, 912 F.3d at 680.

The Fourth Circuit held in *Davison* that the chair of a county board of supervisors acted under color of state law when she created and administered a Facebook page for her office and subsequently banned an individual from it. *Id.* However, considering the facts of this case, we are not convinced that blocking Ms. Griggs from her LinkedIn page constitutes state action. Blocking

Ms. Griggs from this page was not an exercise of traditional state power or the result of state coercion. This page is Ms. Ashlyn's personal LinkedIn page, which she created and used before becoming a member of the Board. The title of the page does not include her official title. While the page lists Ms. Ashlyn's position on the Board, it does so alongside her other occupation. Ms. Ashlyn speaks only for herself on the page, not the Board, and lists only her personal contact information. Thus, there is not a sufficient nexus between this action and the state, and blocking Ms. Griggs from her LinkedIn page was not done under color of state law.

Because Ms. Griggs failed to meet the second prong, we conclude that Ms. Ashlyn did not violate Ms. Griggs' constitutional right to free expression when she blocked Ms. Griggs on LinkedIn.

III. Conclusion

For the foregoing reasons, the decision of the District Court granting summary judgment to the Appellee is **AFFIRMED**.

WEISS, Circuit Judge, dissenting.

I disagree with the Majority's holdings on these two important constitutional issues.

I. City of Dooley School Board Invocations Violate the Establishment Clause.

The Majority seems to forget that "[t]he First Amendment's Religion Clause means that religious beliefs and religious expression are too precious to be either proscribed or prescribed by the State." *Lee v. Weisman*, 505 U.S. 577, 589 (1992). My view is quite simple: "when a citizen stands before her government, whether to perform a service or request a benefit, her religious beliefs do not enter into the picture." *Town of Greece, N.Y. v. Galloway*, 572 U.S. 565, 621 (2014) (Kagan, J., dissenting). The Board's invocation practice goes against my understanding of the limits of the Constitution.

First, I find the Majority's casual brush-off of the District Court's discussion of *American Legion v. American Humanist Ass'n*, 139 S. Ct. 2067 (2019), quite disturbing. In *American Legion*, the Supreme Court found that the cross, heavily associated with Christianity, had "taken on a secular meaning." *Id.* at 2074. But meditation has not transformed into a universally secular meaning like the cross. In fact, the idea that meditation has secular or no religious meaning is disingenuous both to the Constitution and the Buddhist faith. And here, the practice of meditation is known to be associated with Buddhism as it is primarily Buddhist monks who lead the invocation at the City of Dooley meetings. During the May 2018 invocation, a Buddhist monk, approved by Ms. Ashlyn, led those assembled in a practice of his religious tradition. If a pastor gave that invocation and Ms. Ashlyn's opening comments replaced "peace" with "love of Jesus," there would be no debate before this Court as to that practice's constitutionality. I see no substantive difference. This invocation promoted Buddhism and did so with the imprimatur of the government.

Regardless, I would reverse the District Court’s decision as this case should be treated as one of school prayer. The Board “revolves around public school education.” *Doe v. Indian River Sch. Dist.*, 653 F.3d 256, 278-79 (3d Cir. 2011), *cert. denied*, 565 U.S. 1157 (2012). The Constitution should treat school board meetings no differently than a high school graduation or a faculty meeting. The factors commonly found in legislative-prayer cases are not present here. As such, this invocation “is not the sort of solemnizing and unifying prayer, directed at lawmakers themselves and conducted before an audience of mature adults free from coercive pressures to participate, that the legislative-prayer tradition contemplates.” *Freedom From Religion Foundation, Inc. v. Chino Valley Unified Sch. Dist. Bd. of Educ.*, 896 F.3d 1132, 1142 (9th Cir. 2018). And here, students’ attendance at the meetings is not voluntary in the slightest.

As the invocations are not legislative prayer, they must be school prayer. School-prayer cases apply *Lemon v. Kurtzman*, 403 U.S. 602 (1971), to determine “whether a governmental policy or action is an impermissible establishment of religion.” *Chino Valley*, 896 F.3d at 1142. “[I]n employing the three-pronged *Lemon* test, we must do so mindful of the particular concerns that arise in the context of public elementary and secondary schools.” *Edwards v. Aguillard*, 482 U.S. 578, 585 (1987). These meditation-based invocations clearly fail the *Lemon* test in multiple respects. Finally, even if I agreed that this is a case of legislative prayer, the *Marsh* test, by a purely textual analysis, cannot be satisfied.

II. The First Amendment Does Not Permit a Public Official to Block Constituents on LinkedIn.

A public official cannot make an end-run around the free speech rights of their constituents simply by limiting their social media presence to an ostensibly personal account. While I concur with the Majority’s reluctant conclusion that Ms. Ashlyn’s LinkedIn page is a forum for speech purposes, I would hold it constitutes a traditional public forum. The purpose of social media platforms, such as LinkedIn, is to facilitate a vast array of communication between people; it is, in essence, the twenty-first century equivalent of those environments that have traditionally been “devoted to assembly and debate.” *Ark. Educ. Tv Comm’n v. Forbes*, 523 U.S. 666, 677 (1998). As Chair of the Board, Ms. Ashlyn actively invited members of the public to interact with her on this page. Although she exercises nominal control by limiting access to those whose connection requests she approves, she regularly approves requests from constituents. In fact, she has amassed more than 1,000 “connections” on this platform, meaning there are more citizens virtually assembled on this page than one is likely to encounter at a typical Board meeting. Some may depend on Ms. Ashlyn’s page for information related to the Board. Since restrictions in a traditional public forum cannot discriminate based on viewpoint, Ms. Ashlyn discriminated against Ms. Griggs’s viewpoint. Such an action is one that the Constitution does not permit.

It is also difficult to escape the conclusion that Ms. Ashlyn’s action was under color of state law. The majority correctly identifies several tests used to assess whether an action is a state action. However, the application of these tests to the instant facts comes up short. The distinctions drawn by the Majority with the opinions of our sister circuits that do identify state action, such as the use of personal contact information and listing of another occupation, smack of superficiality. See *Davison v. Randall*, 912 F.3d 666, 680 (4th Cir. 2019). Ms. Ashlyn actually engages with issues concerning her public office on her LinkedIn profile page, answering questions from her

constituents and posting copies of meeting minutes for all her connections to access. Whether it was her lone intention or not, Ms. Ashlyn suppressed a criticism of her and her Board's performance when she blocked Ms. Griggs. The nexus between this action and Ms. Ashlyn's official position is undeniable.

Since I would grant the relief sought by the Appellant for the reasons above, I respectfully

DISSENT.

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

ELÉONORE GRIGGS,)	
)	
Plaintiff - Appellant,)	
)	
v.)	C.A. No. 18-256
)	
MEGHAN ASHLYN)	
Chair, City of Dooley)	
School Board)	
)	
Defendant - Appellee.)	

**OPINION AND ORDER GRANTING DEFENDANT’S
MOTION FOR SUMMARY JUDGMENT**

Defendant, Meghan Ashlyn, in her official capacity as Chair of the City of Dooley School Board, has moved this Court for an order granting her summary judgment on the ground that there are no material facts in dispute such that she is entitled to judgment as a matter of law. Plaintiff, Eléonore Griggs, alleges two claims under 42 U.S.C. § 1983 pertaining to violations of her First Amendment rights. First, Plaintiff argues that Defendant’s approval of invocations in the form of meditation at City of Dooley School Board meetings violates the Establishment Clause. Second, Plaintiff argues that Defendant violated her right to free expression by blocking her on LinkedIn. Defendant asserts that the invocations are not religious, and even so, fall within the legislative-prayer exception, and that she blocked Plaintiff from her personal LinkedIn page. For the following reasons, we find no violations of Plaintiff’s First Amendment rights and grant Defendant’s motion for summary judgment.

As a preliminary matter, this Court must determine whether Plaintiff has standing to challenge these actions. “Constitutional standing requires that the plaintiff personally suffered some actual or threatened injury that can fairly be traced to the challenged action and is redressable by the courts.” *Doe v. Tangipahoa Parish Sch. Bd.*, 494 F.3d 494, 496 (5th Cir. 2007). With regards to Plaintiff being blocked on LinkedIn, Plaintiff clearly alleges an injury traceable to Defendant, which could be remedied by injunctive relief. It is a closer question on the matter of the invocations, but this Court again answers it in the affirmative. Many courts have found standing when a plaintiff actually witnessed an alleged violation of the Establishment Clause at a public meeting. *See, e.g., Dobrich v. Walls*, 380 F. Supp. 2d 366, 373 (D. Del. 2005); *cf. Tangipahoa Parish*, 494 F.3d at 496-99. Here, there is no dispute that Plaintiff attended this particular Board meeting, and regularly attends others. Her presence results in the requisite allegation of injury from an action of Defendant, and this injury could also be remedied by an injunction preventing such displays at future Board meetings. Thus, this Court is persuaded that Plaintiff has standing to challenge this alleged violation of the Establishment Clause.

Plaintiff challenges Defendant's approval of the Board's invocations at its meetings as a violation of the Establishment Clause.

The first dispute between the parties is whether meditation even invokes the Establishment Clause. Plaintiff argues that meditation is associated with and advocated by the Buddhist faith while Defendant cites *American Legion v. American Humanist Ass'n*, 139 S. Ct. 2067 (2019), to argue that meditation today encompasses an entirely secular meaning. We agree with Defendant. Meditation has gained significant popularity in the United States, such that it is no longer associated with the Buddhist faith. Rather, individuals can practice meditation by simply downloading an app on their phone—it would be a stretch to say downloading and using such an app would make one a Buddhist or amount to promoting the Buddhist faith.

Although the analysis arguably ends there, the Court will address the additional Establishment Clause issue, as recent opinions by Circuit Courts have muddied the waters. The Establishment Clause analysis differs significantly based on whether this is a case of school-prayer or legislative-prayer. Plaintiff asserts the Board meetings should be analyzed under the Establishment Clause standard for school-prayer cases, but Defendant argues this practice does not violate the Establishment Clause as it falls within the firmly established legislative-prayer exception set out in *Marsh v. Chambers*, 463 U.S. 783 (1983).

Again, Defendant is correct as this is a case of legislative prayer. The Board exists as a legislative body. “In no respect is [a school board] less a deliberative legislative body than was the town board in *Galloway*.” *Am. Humanist Ass'n v. McCarty*, 851 F.3d 521, 526 (5th Cir. 2017). The next question is whether the invocations satisfy the *Marsh* legislative-prayer exception. The Supreme Court in *Marsh* held that an invocation at the beginning of a legislative session was constitutional because “[t]he opening of sessions of legislative and other deliberative public bodies with prayer is deeply embedded in the history and tradition of this country.” 463 U.S. at 786. Pursuant to that history, “legislative prayer, while religious in nature, has long been understood as compatible with the Establishment Clause.” *Town of Greece, N.Y. v. Galloway*, 572 U.S. 565, 575 (2014). The historical practice and understanding of invocations at legislative meetings are well-established. “[D]ating from the early nineteenth century, at least eight states had some history of opening prayers at school-board meetings.” *McCarty*, 851 F.3d at 527.

Plaintiff also argues that the invocations were unduly coercive. However, the Court finds no evidence of coercion. The “key” is that legislative prayers cannot result in “exploitation” or “proselytizing.” *Tangipahoa Parish*, 631 F. Supp. 2d at 836. As discussed earlier, the invocations were not overtly religious, and therefore did not proselytize. Since the invocations fall within the legislative-prayer exception, the Establishment Clause was not violated.

Turning to the second claim, this Court finds that Defendant is entitled to judgment as a matter of law because Defendant did not block Plaintiff on LinkedIn under color of state law. To prevail on a § 1983 claim, a plaintiff must show the defendant acted under color of state law, meaning the defendant acted with the authority of the state or undertook a private action with a close nexus to the state. *See, e.g., Windom v. Harshbarger*, No. 1:19-cv-24, 2019 U.S. Dist. LEXIS 95080, at *7 (N.D. W. Va. June 6, 2019).

In this case, the material facts leave no doubt that this action was not under color of state law. Defendant's LinkedIn account existed before she became Chair of the Board, and she uses it for personal purposes unrelated to her office. She has consistently maintained personal, private control of her LinkedIn page by requiring a "connection" request, which she must approve, before a person can view her entire page. Any citizen could go to the Board meetings, which are open to the public, and encourage others to associate with them on social media. Similarly, anyone could discuss Board matters on social media, as Defendant occasionally does. These links to the state are merely tangential and do not create the nexus required for Defendant's action to be under color of state law. Thus, Defendant did not violate Plaintiff's First Amendment rights.

IT IS ORDERED that Defendant's motion for summary judgment is GRANTED.

/s/ Judge D.M. Jarndyce
David M. Jarndyce
United States District Judge

CITY OF DOOLEY SCHOOLS

School Board Policy 210

Opening Invocation at Meetings of the City of Dooley School Board

1. Every meeting of the School Board shall begin with an invocation for the benefit of the School Board and the community.
2. The invocation shall be listed as an agenda item for the meeting.
3. The invocation shall be given in the form of meditation.
4. The invocation shall be voluntarily led by a leader within the City of Dooley who is certified to lead meditation practices. The Board shall keep a list of these leaders within city limits, and all leaders on this list shall be automatically eligible to lead invocations. Any monk at the Dooley Monastery will be placed on this list. Other community leaders may request to lead an invocation, and permission for these leaders shall be granted at the discretion of the Board Chair.
5. No invocation leader shall receive compensation for his or her service.
6. The Chair of the School Board shall introduce the invocation leader and invite all assembled to participate.

CITY OF DOOLEY SCHOOLS

Agenda of City of Dooley School Board Meeting

Miss Jean High School
1301 Peachtree Road NE
Dooley, EM 10189
Monday, May 14, 2018 / 7:00 p.m.

- I. **Call to Order** – 7:00 p.m.
 - a. General Welcome to Audience – Board Chair Meghan Ashlyn
 - b. Announcements
 - i. As of January 2018, Board has officially adopted 7:00 p.m. meeting times to permit more attendance by parents and students who participate in extracurricular activities.
 - ii. District awarded Programming Grant to develop coding curriculum.
 - iii. Bobinski High School’s marching band to perform at Macy’s Day parade.
 - c. Roll Call
 - d. Opening Invocation – Mr. Richard Hammond, Dooley Monastery
- II. **Student Highlight & Discipline** – 7:10 p.m.
 - a. Performance by Bobinski High School Marching Band
 - b. Disciplinary and Readmission Hearings
 - c. Student Highlight: 2018 Valedictorian, Zach Panter
- III. **Chair’s Report** – 7:30 p.m.
- IV. **Business of the Board** – 7:40 p.m.
 - a. Old Business:
 - i. Revision to City of Dooley School Board Policy 148: All-day Kindergarten (Vote). Approval of this item would amend Board Policy 148 to bring policy into compliance with state law requiring free kindergarten to be extended to full-day service. (Discussion concluded during February 10, 2018 meeting.)
 - ii. High School Repaving Authorization. (Vote). Approval of this item would authorize the Chair to solicit bids for repaving of the high school parking lots, with a project budget of \$100,000. (Sent to Finance Committee January 8, 2018. Finance Committee was reviewed during February 10, 2018 meeting.)
 - b. New Business:
 - i. Proposal to Authorize Coding Classes in All High Schools: (Introduction and Discussion) This policy would authorize the Chair to solicit teachers for an Introduction to Coding class.
 - ii. Proposal to Extend School Year by Five Days. (Discussion) Pursuant to the consultant’s report submitted December 2017, the Board will discuss the feasibility and advisability of extending the school calendar by five working days.
- V. **Public Testimonies** – 8:00 p.m.
 - a. Joe Lenoff: “Eliminating the Sinful Number 13 from Math Classes”
 - b. Ron Wang: “Why Our Schools Need More Basketball and Less Research”
 - c. Adi Sharma: “Sex Ed...Revisited”
- VI. **Public Comment** – 8:20 p.m.
- VII. **Adjournment** – 8:30 p.m.

THOMAS ARTHUR HIGH SCHOOL

Civics 101 – Dr. Sarah Rolfe – Eleventh Grade, Room G114

This Course consists of a survey of basic government. It will cover government, your role in government, and what *you* can do to participate in the government. The course will consist of these major areas: (1) Principles and Philosophies of Government; (2) The Nature of Man; (3) The History of Freedom; (4) US Constitution; (5) State, Local and Tribal Governments; and (6) Rights and Responsibilities of Citizens.

Required Texts: *Civics 101* by S. Rolfe; U.S. Constitution.

Description: “Patriotism is as much a virtue as justice, and is as necessary for the support of societies as natural affection is for the support of families.” This 1773 statement, by the American patriot Benjamin Rush, is the point for the course of Sophomore Civics. An inquiry into the importance of American liberty, and yes, order, this course explores the foundations of republican government. It considers the rights and responsibilities of citizenship and explores the fundamental principles of a free economy without which there is no free society. Building upon the strong introduction to the American founding that students received in their US history classes, this course goes more deeply into early American political thought.

CLASSROOM EXPECTATIONS:

- If you miss class for **any reason** it is your responsibility to find out what you missed. It is your responsibility to make up notes and get handouts before the next class period and to make sure you understand the notes. Any unexcused absence results in a zero on anything due or assigned that day.
- Tardy: Be in the room when the bell rings, 1 without penalty. Each and every one following will go against your participation grade. 3x is a major offense.
- Cheating, copying, and plagiarism will be an automatic F (zero).

GRADES

Grades include 1) homework, 2) tests/quizzes, 3) class participation, and 4) essays.

EXTRA CREDIT

- Students who exercise their civic duty may be eligible for extra credit. To qualify, the student must: (1) attend an entire local government meeting; (2) receive the signature of the presiding individual at that meeting; and (3) submit a 3-page paper about the meeting and your participation.
- Local government meetings include, but are not limited to, the following: City of Dooley School Board, Emory State House, City Council.

Assignments / Schedule: *[INTENTIONALLY OMITTED]*

MEGHAN ASHLYN'S LINKEDIN
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Contact

(123) 456-7890 (Home)
meghan_ashlyn@amicusauto.com

www.linkedin.com/in/meghan-ashlyn-75382b191 (LinkedIn)
cityofdooleyschooldistrict.edu (Company)
amicusauto.com (Company)

Meghan Ashlyn

Chair of City of Dooley School Board & Co-Owner of Amicus Auto Shop

Experience

City of Dooley School Board

Chair
January 2015 - Present
Dooley, Emory

Elected as Member of School Board in 2015. Serving as School Board Chair since 2017. Committed to the excellence of City of Dooley's students by promoting mental health and academic support to all.

Amicus Auto Shop

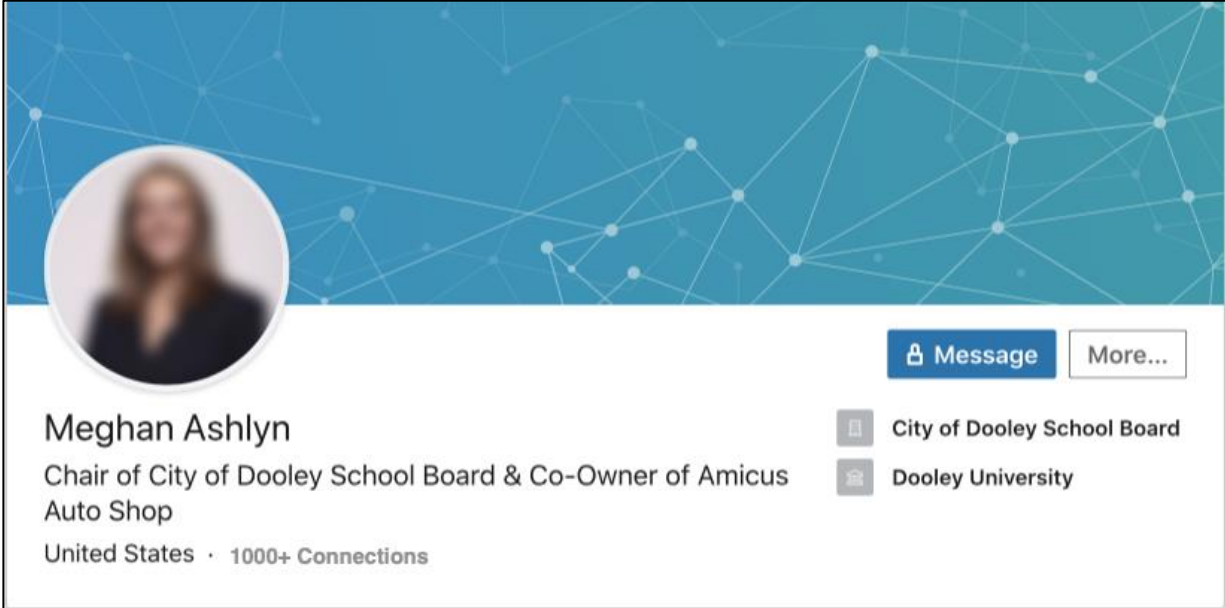
Co-Owner
February 1993 - Present
Dooley, Emory

Family-owned since 1982. Visit us at amicusauto.com or call (456) 789-0123!

Education

Dooley University
Bachelor's degree, Business & Public Administration · (1988 - 1992)

MEGHAN ASHLYN'S LINKEDIN
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The header section of the LinkedIn profile features a blue background with a white network diagram. On the left is a circular profile picture of Meghan Ashlyn. To the right of the picture are two buttons: a blue "Message" button with a lock icon and a white "More..." button. Below the picture, the name "Meghan Ashlyn" is displayed in bold, followed by her current roles: "Chair of City of Dooley School Board & Co-Owner of Amicus Auto Shop". To the right of the name are two organization icons: a school board icon for "City of Dooley School Board" and a university icon for "Dooley University". At the bottom of the header, it says "United States · 1000+ Connections".

Meghan Ashlyn
Chair of City of Dooley School Board & Co-Owner of Amicus Auto Shop
United States · 1000+ Connections

City of Dooley School Board
Dooley University

Experience

Chair
City of Dooley School Board
Jan 2015 – Present · 4 yrs 8 mos
Dooley, Emory
Elected as Member of School Board in 2015. Serving as School Board Chair since 2017. Committed to the excellence of City of Dooley's students by promoting mental health and academic support to all.

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Education

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MEGHAN ASHLYN'S LINKEDIN

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The screenshot shows the LinkedIn profile of Meghan Ashlyn. The profile header includes her name, title 'Chair of City of Dooley School Board & Co-Owner of Amicus Auto Shop', and a follower count of 1000+. The activity feed shows a post from Meghan Ashlyn about a school board meeting agenda, with 103 likes, 4 comments, and 32 shares. The post includes a link to the agenda and several comments from other users, including Geoff Andrews, Meghan Ashlyn (You), Blake Sumner, and Meghan Ashlyn (You).

Profile Information:
Meghan Ashlyn
Chair of City of Dooley School Board & Co-Owner of Amicus Auto Shop
Followers: 1000+

Activity Feed:
Meghan Ashlyn (Chair of City of Dooley School Board & Co-Owner of Amicus Auto Shop)
The agenda for tomorrow's School Board meeting is attached. You can also access it at <https://lnkd.in/evaHd9R>
Attached: 2018.05 Sch Bd Agenda
103 Likes 4 Comments 32 Shares

Comments:
Geoff Andrews: I'll be there, Meghan!
Meghan Ashlyn (You): Well duh! I figured you would be there since Sama is performing with the marching band. I'm SO excited to see their performance. Want to grab a bite to eat after the meeting?
Blake Sumner: Why fund a coding class when we need more classes in the arts? I'm concerned...
Meghan Ashlyn (You): I understand your concern about the new class. Bring it up during public comment in tomorrow's meeting. But I know my Eric would LOVE a class on coding!

MEGHAN ASHLYN'S LINKEDIN

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The screenshot displays the LinkedIn profile of Meghan Ashlyn. The top navigation bar includes the LinkedIn logo, a search bar, and icons for home, network, jobs, and notifications. The profile header shows Meghan's name, title, and follower count (1000+). The main content area is titled "Meghan's Activity" and features a post from her about hiring at Amicus Auto Shop. The post includes a hiring announcement, a call to action, and engagement metrics (12 likes, 3 comments, 2 shares). Below the post are three comments from Claire Franks, Finn Blalock, and Allie McCrary. The right sidebar contains sections for "Interests" and "Companies", with the LinkedIn Welcome Guide listed as a followed company.

LinkedIn Search

Meghan Ashlyn
Chair of City of Dooley School Board & Co-Owner of Amicus Auto Shop
Followers 1000+

Meghan's Activity
All activity Articles Posts Documents

Meghan Ashlyn
Chair of City of Dooley School Board & Co-Owner of Amicus Auto Shop
Meghan's connections

We're hiring! Amicus Auto Shop is looking for a Receptionist and a Mechanic to join our team. If you're interested, leave a comment, send me a message, or give us a call at (123) 456-7890.

And don't forget to visit the only friend you need for car repairs: Amicus Auto!

12 Likes 3 Comments 2 Shares

Like Comment Recent Comments

Add a comment...

Claire Franks
Left you a voicemail yesterday about the mechanic gig - give me a call back.

Finn Blalock
Very interested. Just messaged you.

Allie McCrary
Best body shop in Dooley - only one I'll trust with my car!

Interests

Companies

LinkedIn
Welcome Guide ✓ Following
4,950,173 followers

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MEGHAN ASHLYN'S LINKEDIN

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The screenshot displays the LinkedIn profile of Meghan Ashlyn. The top navigation bar includes the LinkedIn logo, a search bar, and utility icons for home, profile, messages, and notifications. The profile header shows Meghan's name, title as Chair of City of Dooley School Board & Co-Owner of Amicus Auto Shop, and a follower count of 1000+.

Meghan's Activity

Activity filters: All activity | Articles | **Posts** | Documents

Meghan Ashlyn
Chair of City of Dooley School Board & Co-Owner of Amicus Auto Shop
Meghan's connections

Good article re: oil changes. Come visit me at Amicus if you're not sure when to change your oil!



Do You Really Need to Change Your Oil Every 3,000 Miles? | News from Cars.com
cars.com

4 Likes 2 Comments 1 Share

Like Comment Recent Comments

Add a comment...

Caitlin Peterson
You always post the most helpful articles. No one else I trust with my car (or my kids' education).

Wills Taylor
Wow...good to know. I'll swing by next week.

Interests

Companies

- LinkedIn
- Welcome Guide ✓ Following
- 4,949,365 followers

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MEGHAN ASHLYN'S LINKEDIN

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The screenshot displays the LinkedIn profile of Meghan Ashlyn. The header includes the LinkedIn logo, a search bar, and navigation icons for home, network, and messages. The profile card on the left shows her name, title as Chair of City of Dooley School Board & Co-Owner of Amicus Auto Shop, and a follower count of 1000+.

The main content area features a post titled "Meghan's Activity" with tabs for "All activity", "Articles", "Posts", and "Documents". The selected "Posts" tab shows a post by Meghan Ashlyn with the text: "People ask me how our family started and runs Amicus Auto Shop. Long stord short: it's not easy. But this article presents an interesting perspective as to what you should consider before diving into this line of business. Enjoy!". Below the post is a link to an article titled "Everything You Wanted To Know About Buying An Auto Body Shop" from businessbuyingservices.com, which has 18 likes, 2 comments, and 3 shares.

The comments section shows two entries: one from Sam Dodd asking "Y'all still hiring for that Receptionist position?" and another from Meghan Ashlyn replying "I'll shoot you a message now.".

The right sidebar contains sections for "Interests", "Companies" (featuring the LinkedIn Welcome Guide with 4,949,759 followers and a "Following" status), and footer links for "About", "Help Center", "Privacy & Terms", "Advertising", and "Business Services".

MEGHAN ASHLYN'S LINKEDIN

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The screenshot displays the LinkedIn profile of Meghan Ashlyn. The header includes the LinkedIn logo, a search bar, and navigation icons for home, network, marketplace, messages, notifications, and profile. A 'Try Premium Free for 1 Month' badge is visible in the top right.

Profile Card:
Meghan Ashlyn
Chair of City of Dooley School Board & Co-Owner of Amicus Auto Shop
Followers: 1000+

Meghan's Activity:
All activity | Articles | **Posts** | Documents

Post:
Meghan Ashlyn
Chair of City of Dooley School Board & Co-Owner of Amicus Auto Shop
Minutes from the 8/28/2017 School Board meeting attached.
Hope to see everyone at the next meeting - we'll be honoring over 200 elementary school students who completed 50+ hours of reading over the summer. And one of those students happens to be my son Eric!!
45 Likes 3 Comments 10 Shares

Comments:
Like | Comment | Top Comments
Add a comment...
Meghan Ashlyn • You
Chair of City of Dooley School Board & Co-Owner of Amicus Auto Sh...
The Board sent letters to the parents of the honored students last month. So we hope to see the students there! I know my Eric certainly will be there :)
Jess Johnson
Way to go, Eric!!
Hannah Brown
Will the students be at the Board meeting?

Right Sidebar:
Interests
Companies
LinkedIn
Welcome Guide ✓ Following
4,950,413 followers
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IN THE
Supreme Court of the United States

ELÉONORE GRIGGS,

Petitioner,

v.

MEGHAN ASHLYN,

CHAIR OF THE CITY OF DOOLEY

SCHOOL BOARD

Respondent.

ON WRIT OF CERTIORARI FOR THE
UNITED STATES COURT OF APPEALS
FOR THE THIRTEENTH CIRCUIT

Dated: August 22, 2019

Petition for writ of certiorari to the Supreme Court of the United States is granted, limited to the following questions:

1. Whether invocations given in the form of meditation at the beginning of school board meetings violate the Establishment Clause of the Constitution.
2. Whether blocking a constituent on a social media platform impermissibly infringes on that constituent's right to free expression.