

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**M.A.L., a minor child, by and through his parents and
next friends, M. L. and S.A.,**

Plaintiff,

**CASE NUMBER: 07-10391
HONORABLE VICTORIA A. ROBERTS**

v.

STEPHEN KINSLAND, ET AL,

Defendants.

PERMANENT INJUNCTION AND AWARD OF DAMAGES

The Court entered a Preliminary Injunction on January 30, 2007 and a Corrected Opinion and Order supporting the issuance of the Preliminary Injunction on January 31, 2007. On February 26, 2007, Defendants filed an appeal with the Sixth Circuit Court of Appeals. Since then, the parties stipulated under FED. R. CIV. P. 65 that the hearing the Court held on the request for a preliminary injunction on January 29, 2007 suffices as a trial of the action on the merits. With this stipulation, the Court is able to convert the Preliminary Injunction into a Permanent Injunction. This Court does so over the objection of the Defendants; Defendants continue to have the same objections voiced in their papers in opposition to the preliminary injunction and at the consolidated hearing.

The Court makes the following findings:

1. Plaintiff prevails on the merits for the same reasons set forth in this Court's Corrected Opinion and Order dated January 31, 2007.
2. Plaintiff will suffer irreparable harm in the absence of a Permanent Injunction.

3. Others will not suffer substantial harm.
4. The public interest will be served by issuance of a Permanent Injunction.

Accordingly, the Court **ORDERS** that all named Defendants, in their official and individual capacities, their officers, agents, servants, employees, attorneys, as well as those in active concert or participation with them who receive actual notice of this order, are **ENJOINED** from enforcing the Defendants' Policy concerning the Distribution of Non-School Sponsored Literature Or Publications ("Distribution Policy").

Further, Defendants are enjoined from placing restrictions on the Plaintiff's distribution of non-school sponsored literature (specifically, his anti-abortion literature) in the absence of a showing that Plaintiff's possession and distribution of such literature would materially and substantially interfere with the requirements of appropriate discipline in the operation of Jefferson Middle School, or intrude upon the rights of other students.

Plaintiff is free to possess and distribute his anti-abortion literature during non-instructional times at Jefferson Middle School, and can do so in the halls, during his lunch period and on the school campus before and after school.

Further, the parties stipulate that:

- A. Plaintiff is not to place tape over his mouth.
- B. Plaintiff may place tape over his wrists.
- C. Plaintiff may wear a black hooded sweatshirt which says on the front, "Pray to End Abortion."
- D. Jefferson School District retains the right to control the conduct outlined in

A through C above if there are material and substantial disruptions or the reasonable forecast of such disruptions.

E. Defendants do not take the position that the anti-abortion literature that is the subject of this lawsuit and that Plaintiff seeks to distribute would cause a substantial disruption or a material interference with the normal operation of Jefferson Middle School or its activities.

5. The Court finds that Plaintiff did not present proof of actual damages. However, since a First Amendment violation has been proven, the Court awards Plaintiff nominal damages in the amount of One Dollar.

6. Plaintiff reserves the right to file a petition for costs and attorney fees in accordance with 42 U.S.C. § 1988 and other applicable law.

7. This Permanent Injunction is effective immediately.

8. Final Judgment will enter in favor of Plaintiff and against Defendants.

9. Defendants' are to withdraw their notice of appeal filed on February 26, 2007, and have an immediate right to appeal this Permanent Injunction to the Sixth Circuit.

IT IS ORDERED.

S/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: March 19, 2007

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on March 19, 2007.

S/Linda Vertriest _____
Deputy Clerk