

Dear Mr. White,

As you know the ACLU-NC wrote a letter to the School Board Attorney for Roger Bell Elementary school concerning the singing of religious songs at the school Christmas pageant.

However, upon further investigation of your complaint, the ACLU-NC has decided not to pursue a legal challenge in this matter. Although your constitutional rights may very well have been violated, it is our opinion that such a violation will be difficult to prove. Given the facts of the case, we fear that it may establish bad law, negatively impacting future litigation. Therefore, I regret to inform you that the ACLU-NC has closed our file on this matter as of today.

As you may be aware, the ACLU-NC is a non-profit organization that is funded by voluntary, private donations. Thus, we lack the staff and resources to act as a general legal clinic. Even though our staff is quite small with only two attorneys, each year we receive thousands of requests for assistance. As a result, we can offer legal assistance in only a small number of cases with the maximum possibility of success.

Please understand that this does not imply any judgment on the merits of your case. Our decision should not discourage you from pursuing your case by contacting a private attorney. You can do this by contacting the Lawyer Referral Service at PO Box 3688, Cary, NC 27519, or by calling 1-800-662-7660. Through this service you are entitled to a half-hour consultation for a fee of \$30.00. You need to keep in mind that lawsuits must be filed within certain time periods. You will need to consult an attorney about all applicable deadlines.

Thank you for contacting the ACLU-NC. We appreciate your sharing with us your commitment to civil liberties. If we can be of assistance in the future concerning any constitutional matter, please do not hesitate to contact us.

Very truly yours,

Seth H. Jaffe
Staff Attorney

5/10 - spoke with David Henderson +
told him that denominational songs
presented by himself without presentation
of "Rudolph" or "Santa" or other
nondenominational songs are
unconstitutional in public
(Christmas) pageant in order to
clarify my original letter to him.

F:\Seth\Correspondence\
Schools\040600.rpt

DSHTC

CC: Mr. William B. Riverius
Mr. Susan Rivers

Wed

4/24

HENDERSON, BAXTER, TAYLOR & GATCHEL, P.A.

ATTORNEYS AT LAW
POST OFFICE DRAWER U
NEW BERN, NORTH CAROLINA 28563

DAVID S. HENDERSON
B. HUNT BAXTER, JR.
BRIAN Z. TAYLOR
BRIAN J. GATCHEL

607 BROAD STREET
TELEPHONE (252) 638-5792
FACSIMILE (252) 637-7548

April 13, 2000

Mr. Seth H. Jaffe
American Civil Liberties Union
Post Office Box 28004
Raleigh, North Carolina 27611-8004

RE: Christmas Pageant
Our File 00-H-25104

Dear Mr. Jaffe:

This will acknowledge the receipt of your April 10, 2000 relating to the above. The songs to which you refer were those sung at a PTA meeting about Christmas time by students at Roger Bell School.

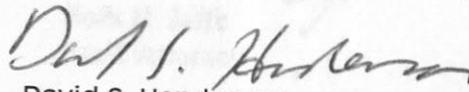
They were a varied mix of songs, including "Jingle Bells", "Mary Had a Baby", "Must be Santa", "Rudolph the Red Nose Reindeer", and "We Wish You a Merry Christmas".

I do not believe this presentation of music at a PTA meeting violates any constitutional provision that I am aware of. As a matter of fact, it appears to be absolutely permissible within the language you kindly provided in paragraph 8 of the enclosed "Publication of the American Civil Liberties Union of North Carolina". Incidentally, no student was forced to participate in this event and it did not offend anyone's beliefs.

I am hopeful that this satisfies your inquiry. If it does not, please either call me or write to me.

Sincerely,

HENDERSON, BAXTER, TAYLOR & GATCHEL, P.A.


David S. Henderson

DSH/tic

cc: Mr. William B. Rivenbark
Mr. Butch Ricks



American Civil Liberties Union of North Carolina
 American Civil Liberties Union Legal Foundation of North Carolina
P.O. Box 28004 / Raleigh, North Carolina 27611-8004
(919) 834-3390 (VOICE & TDD) / FAX 828-3265

April 10, 2000

Butch Ricks
Principal Roger Bell Elementary
804 Fontana Blvd
Havelock, NC 28532

Re: Religious Songs at Christmas Pageant

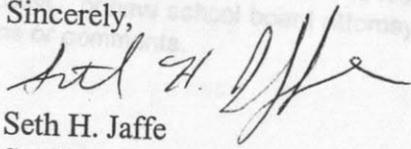
Dear Principal Ricks,

It has been brought to our attention at the ACLU of North Carolina that at the last Christmas pageant held at Roger Bell Elementary, songs about Jesus, the Nativity and Mary were sung as part of the program. While songs concerning Rudolph, Santa and similarly nondenominational songs may be constitutionally permissible, songs specifically concerning Jesus and other explicitly denominational songs violate the Establishment Clause of the First Amendment to the United States Constitution.

Enclosed is a copy of "God and County in the Public Schools" a publication of the ACLU-NC, which outlines guidelines on which school administrators can rely when deciding matters of religious practices in the schools. Please refer to question #8 in the booklet and the answer provided to this question regarding constitutionally permissible songs in the public schools.

Thank you for taking your time to investigate this situation and address these concerns. We look forward to hearing your response at your earliest convenience. Please contact the ACLU-NC, or have school board attorney David Henderson contact us at the above address or call at (919) 834-3466 with your questions or comments.

Sincerely,


Seth H. Jaffe
Staff Attorney

c.c. School Board Attorney David Henderson



Subj: **Religious songs at elementary school**
Date: 4/10/00 11:56:43 AM Eastern Daylight Time
From: Jaffe38840
To: whitesw@cherypoint.usmc.mil

Dear Mr. White,

We received your email on April 5, 2000, where you stated that religious songs were song at the Roger Bell Elementary school Christmas Pageant. Please see, included below, a copy of the ACLU-NC's letter written to the principal of the school as well as the school board attorney.

Thank you for bringing this matter to our attention, and for your commitment to civil liberties.

Seth Jaffe
Staff Attorney

April 10, 2000

Butch Ricks
Principal Roger Bell Elementary
804 Fontana Blvd
Havelock, NC 28532

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Dear Principal Ricks,

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Sincerely,

Seth H. Jaffe
Staff Attorney

c.c. School Board Attorney David Henderson

Subject: **RELIGIOUS SONGS AT ELEMENTARY SCHOOL**
Date: 4/5/00 1:15:56 PM Eastern Daylight Time
From: Aclunc
To: Jaffe38840

INTERESTING?!?!

Forwarded Message:

Subject: **RELIGIOUS SONGS AT ELEMENTARY SCHOOL**
Date: 4/5/00 1:13:08 PM Eastern Daylight Time
From: WhiteSW@cherrypoint.usmc.mil (White WG05 Steven W)
To: samott@acluofnorthcarolina.org ('samott@acluofnorthcarolina.org')

*religious songs at
public school
Roger Bell Elementary
in Havelock, NC*

1. This past Christmas my granddaughter took part in a Christmas Pageant at Roger Bell Elementary School, Havelock, NC.
2. The beginning of the pageant was fine with songs about Rudolph, Santa, etc., but then the songs turn to a religious slant. Songs about Jesus, the Nativity, Mary, etc. One song in particular, O'Come, O'Come, Emanuel was particularly offensive. If a Jewish, or Muslim student or parent was present, I reasonably sure they would have been offended.
3. I do not understand how public school teacher's in this area continue to believe that they can use the school system to proselytize for Christianity. If you are going to allow Christian Hymns in the Public School System, then there should be room allowed for songs about Kwanza, Passover, Ramandan, Tet, etc.
4. Thank you for your consideration.

----- Headers -----

Return-Path: <WhiteSW@cherrypoint.usmc.mil>
Received: from rly-yg05.mx.aol.com (rly-yg05.mail.aol.com [172.18.147.5]) by air-yg02.mail.aol.com (v70.20) with ESMTTP;
Wed, 05 Apr 2000 13:13:08 -0400
Received: from mail.netmar.com (ns2.netmar.com [205.139.138.6]) by rly-yg05.mx.aol.com (v71.10) with ESMTTP; Wed, 05 Apr
2000 13:12:54 -0400
Received: from gate1.cherrypoint.usmc.mil (gate1.cherrypoint.usmc.mil [192.156.73.34]) by mail.netmar.com (8.9.3/8.9.3) with
ESMTTP id NAA12757 for <samott@acluofnorthcarolina.org>; Wed, 5 Apr 2000 13:14:57 -0400 (EDT)
Received: by gate1.cherrypoint.usmc.mil; id NAA05180; Wed, 5 Apr 2000 13:14:06 -0400 (EDT)
Received: from chpt0000sebh.cherrypoint.usmc.mil(158.245.64.141) by gate1.cherrypoint.usmc.mil via smap (V5.0)
id xma004726; Wed, 5 Apr 00 13:13:40 -0400
Received: by chpt0000sebh.cherrypoint.usmc.mil with Internet Mail Service (5.5.2650.21)
id <22W8FNBR>; Wed, 5 Apr 2000 13:11:15 -0400
Message-ID: <8DAFA1DAC043D311A6E4006008044E921FD1@unassigned.cherrypoint.usmc.mil>
From: White WG05 Steven W <WhiteSW@cherrypoint.usmc.mil>
To: "'samott@acluofnorthcarolina.org'" <samott@acluofnorthcarolina.org>
Subject: RELIGIOUS SONGS AT ELEMENTARY SCHOOL
Date: Wed, 5 Apr 2000 13:11:24 -0400
X-Mailer: Internet Mail Service (5.5.2650.21)