

PRAYER
CASES

Post

142
attached

OT 1962

No. 119

WILLIAM J. MURRAY III et al. v. JOHN N. CURLETT
et al. (The members of the School Board)

Cert to CA of Md

Timely

*Baltimore City Schools
has rule for reading
chapter of Bible or Lord's
prayer at morning
service held from
attending -
collectively or
in classes*

This is a Prayer case which I view as very similar to Engel v. Vitale, except for the Prayer or ceremony involved.

Petrs, a student and his mother are asking this Court to review a decision of the CA of Md that Bible reading and Prayer recitation ceremonies at the opening of each school day are not violative of the 1st amend ("establishment" and "free exercise") as made applicable to the States by the 14th amend.

Article VI, Section 6, of the Rules of the Board of School Commissioners of Baltimore City reads as follows:

"Opening Exercise. Each school, either collectively or in classes, shall be opened by the reading, without comment, of a chapter in the Holy Bible and/or the use of the Lord's Prayer. The Douay version may be used by those pupils who prefer it . . ."

and an amendment (1960) of the above rule reads:

"Any child shall be excused from participating in the opening exercises or from a

attending the opening exercises upon the written request of his parent or guardian."

(This parallels the argument or position of Resps in Engel as to the voluntariness of the participation.)

The infant Petr and the individual Petr, his mother, both claiming to be atheists, petitioned the Superior Court of Baltimore for a Writ of Mandamus commanding the Defs to rescind the rule of the School Board and discontinue the practice and exercises thereunder. A demurrer on the ground that mandamus was not the proper form of action was sustained, and the Balto Sup Ct ruled that mandamus was appropriate only if the action of the Board was illegal. The CA of Md sustained the demurrer 4 to 3.

The only distinction that I can see between this case and Engel is that the Prayer, if anything, is more closely akin to a sectarian Prayer, and this provides a more solid basis for decision than did Engel. In his dissent in the decision of the CA of Md, Brune, CJ, at p 18a, Brief of Petr, said:

"There seems to be no substantial room for

dispute that the reading of passages from the Bible and the recital of the Lord's Prayer are Christian religious exercises."

This statement is footnoted in the opinion with the comment that the exercises would be both Jewish and Christian, but still religious, if they were confined to the reading of the Old Testament.

In the light of the decision in Engel and the similarity of the instant case, except that the exercises involved are more clearly inconsistent with the teachings of religions other than Christian, and possibly Jewish, I think cert should be granted. ~~and a writ of certiorari be granted.~~

GRANT

6/20/62

RLB

SUPPLEMENT

In an amicus curiae brief in this cause, the Att'y Gen of Md argues that, under the principle that this Court treats a Constitutional question in its narrowest form, Engle v. Vitale applies strictly to the composition and institution of official prayers for recitation as a part of religious programs carried on by Government. If this is true, the Baltimore School Board Rule is not in contradiction of this decision.

I read the Engle decision to go further than the mere prohibition of official prayers^{COMPOSED AND} prescribed by Government or any arm of Government. Feeling that I am correct in this, I stand on my original recommendation.

RLB