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REPORTER'S RECORD

VOLUME 1 OF 1

TRIAL COURT CAUSE NO. 048-271952-14

IT'S OKAY TO VOTE NO,  
ARLINGTON,  
*PLAINTIFF,*

- *versus* -

ARLINGTON INDEPENDENT  
SCHOOL DISTRICT AND  
MARCELO CAVAZOS,  
*DEFENDANTS.*

IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

48TH JUDICIAL DISTRICT

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TEMPORARY INJUNCTION  
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On the 6th day of May, 2014, the following proceedings came on to be heard in the above-entitled and -numbered cause before the Honorable Dixon Holman, Judge Presiding, held in Fort Worth, Tarrant County, Texas:

Proceedings reported by machine shorthand.

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TEMPORARY INJUNCTION

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P R O C E E D I N G S

(Tuesday, May 6, 2014.)

THE COURT: All right. This is *Arlington Independent School District, et al versus It's Okay To Vote No, Arlington*, right?

01:29PM

MR. HILL: That's correct, Your Honor.

MR. NORRED: That's right, Your Honor.

THE COURT: All right. So who is going to tell me about it first?

01:29PM

MR. NORRED: I assume that would be me, Your Honor.

THE COURT: All right.

MR. NORRED: My name is Warren Norred. I'm here with Chad Lampe, Norred Law, PLLC, representing *It's Okay to Vote No, Arlington*, popularly known as "Vote No," which I invite everybody to use.

01:30PM

Your Honor, there is a bond package that AISD has on the election -- on the ballot for this Saturday. In pursuant -- in pursuit of passage of that bond package, a number of informational meetings have occurred, and there are many activities on both sides.

01:30PM

Couple of -- last week we found out that the -- those of us who are against it, my client, found out that there was a pep rally that was being planned for *Arlington High School* on its athletic grounds in

01:30PM

1 favor of the bond package. It appeared to be -- it  
2 still appears to be a sanctioned event by AISD.

3 It doesn't appear that the proponents of  
4 the bond package are paying anything for that venue,  
01:30PM 5 and so they are violating Texas state law and the  
6 Election Code, as I have cited in my petition.

7 So that's what we're here about.

8 THE COURT: Okay.

9 MR. NORRED: The --

01:31PM 10 THE COURT: Response?

11 MR. HILL: If it please the Court, Your  
12 Honor, Frank Hill and Frank Gilstrap and Heather  
13 Castillo representing the school district. If I may,  
14 we have the board president, Mr. Bowie Hogg, present,  
01:31PM 15 and we have our superintendent, Dr. Cavasos, and we  
16 have our CFO present, too, Cindy Powell.

17 THE COURT: All right.

18 MR. HILL: Your Honor, the fact of the  
19 matter is that the school district has never approved  
01:31PM 20 or sanctioned the free use of these facilities in  
21 question. Some private citizens, as the Court will  
22 see, tried to organize a pep rally. It was --  
23 apparently, they were going to try to do it after  
24 spring practice football, on the football field, I  
01:31PM 25 suppose.

1           The evidence is going to show that as the  
2 information became known to -- to the representatives  
3 of the school district, it reached up to the  
4 superintendent. He immediately said, no, that there  
5 will not be permitted any pro-vote rally on school  
6 premises. That apparently didn't get through clearly  
7 to some of the plaintiffs or their representatives.

01:32PM

8           So, ultimately, just in the last week, the  
9 superintendent made very clear through Ms. Powell that  
10 not only would there not be a no -- no pro-vote rally,  
11 there wouldn't be any rally.

01:32PM

12           And the evidence is going to show that,  
13 even as we speak today, at Arlington High School the  
14 spring football practice will occur. We have taken  
15 steps to have people there to be certain that no people  
16 come up with signs, nobody that looks like they are  
17 going to protest or vote yes, vote no, nothing.

01:32PM

18           And, indeed, we have an assistant  
19 superintendent out there specifically to -- with the  
20 security people to announce at the end of the spring  
21 football practice, Players, leave the field; Coaches,  
22 leave the field. An announcement is going to be made,  
23 This facility is closing; everybody get out.

01:32PM

24           So that's what the undisputed evidence is  
25 going to show; that they have never approved of it.

01:33PM

1 They have taken every reasonable step all of last week.  
2 And, frankly, Counsel was informed of that all -- all  
3 of that by last Friday. Nonetheless, this suit was  
4 filed at 3:45 in the morning, I think, on Monday --  
5 yes, Monday, despite our efforts to alert Counsel that  
6 there is really no need in this, that everything has  
7 been taken care of and is being taken care of.

01:33PM

8 We can't -- obviously, we can't tell  
9 private citizens not to exercise their First Amendment  
10 rights to get on Facebook and all of this electronic  
11 stuff that they have nowadays. And they have, many  
12 citizens have done that.

01:33PM

13 But when it comes finally to the  
14 decision-maker or the decider, I guess, as our  
15 president -- former president used to say, the  
16 superintendent made that call. He had the authority to  
17 do it and he said, No pep rally for "Yes," no pep rally  
18 at all, close it out.

01:33PM

19 THE COURT: All right. Response?

01:34PM

20 MR. NORRED: Yes, Your Honor. I have been  
21 told the pep rally has been cancelled by opposing  
22 counsel and by Cindy Powell late. What I haven't been  
23 told is whether or not they feel as though they have  
24 the right to do this.

01:34PM

25 If -- if opposing counsel is willing to

01:34PM

1 publicly say here on the record that there is nothing  
2 that -- that -- as I have just heard, they are taking  
3 proactive steps, which is what we have always asked  
4 for, just to say you are going to take responsibility  
5 for this. And if you're going to take responsibility  
6 for it and say so publicly, not just Counsel to  
7 Counsel, and just say you need to cancel it because  
8 your point is moot, then our claims are moot.

01:34PM

9 If there are no further activities like  
10 this scheduled, and if opposing counsel is saying in  
11 open court that Superintendent Cavasos has taken  
12 proactive steps to ensure that the law is going to be  
13 followed, we are ready to drop the suit.

01:35PM

14 THE COURT: Response?

01:35PM

15 MR. HILL: Well, we just said it, Your  
16 Honor. I want to make clear that Dr. Cavasos and the  
17 District didn't take these steps in response to the  
18 threat of litigation or Counsel's phone calls or  
19 emails. Dr. Cavasos, from the very beginning, has said  
20 and issued the directive there will be no partisan  
21 rally, period.

01:35PM

22 So we have been in compliance. We are not  
23 correcting anything. It is the policy of the District,  
24 the practice of the District, and it will remain that,  
25 to follow the law. This lawsuit was unnecessary. We

1 have told them that from before the time it was filed.

2 MR. NORRED: Your Honor, I'm sorry, I have  
3 to -- if you will look at the Court -- at opposing  
4 counsel's answer, it is not that our claims are moot  
01:35PM 5 and therefore it has no plea to the jurisdiction -- no  
6 jurisdiction. It is a general denial, and it's, We  
7 have a right to do it under the First Amendment.

8 At no time in writing have they ever said,  
9 and they still haven't until this moment -- said  
01:36PM 10 anything that could even possibly be construed as a  
11 public statement that they were taking a proactive  
12 stance. That's all we have ever asked for.

13 We have heard this now, and I just felt the  
14 need to respond to that. This has not been a meritless  
01:36PM 15 suit. As far as I can tell from the pleadings, they  
16 still claim the right to go do this tomorrow. There is  
17 nothing in the pleadings that says otherwise.

18 THE COURT: Are you contending that you  
19 could do it tomorrow?

01:36PM 20 MR. HILL: No, Your Honor. We could never  
21 do it, Your Honor. The public facilities cannot be  
22 used for a political purpose. We have always adhered  
23 to that premise.

24 THE COURT: Okay. What's your response to  
01:36PM 25 that?

1 MR. NORRED: That they have never -- all  
2 they had to do -- in fact, I asked them a couple days  
3 ago, send out a district-wide email that says that  
4 political activity is not allowed on state property,  
01:36PM 5 public property, and we're done. I said that, and  
6 that's an email in writing that I sent them. Still, no  
7 response.

8 They say one thing, but their pleadings and  
9 their writings, that which they could be held to, has  
01:37PM 10 been another throughout. If they are saying, and they  
11 just have -- I'll take them at their word. I'm  
12 assuming that the Court will take them at their word.

13 THE COURT: Yes.

14 MR. NORRED: Then -- then we can -- I'm  
01:37PM 15 prepared to drop the suit.

16 THE COURT: So we fold our chairs and tents  
17 and go home then?

18 MR. NORRED: That's right, Your Honor.

19 THE COURT: Okay. All right. That's what  
01:37PM 20 we'll do then. All right. Well, thank you-all for  
21 coming. Sorry that you had to be here, but...

22 MR. HILL: May I -- just for clarification,  
23 I'm assuming I'm hearing a voluntary nonsuit.

24 MR. NORRED: Let me make it very clear.  
01:37PM 25 We're dropping our suit. We're dropping all claims,

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nonsuiting our claims.

THE COURT: Thank you.

(Proceedings concluded at 1:37 p.m.)

