UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

MARK AHLQUIST, as next friend, parent and guardian of JESSICA AHLQUIST, a minor,
Plaintiff,

v. C.A. No. 11-138L

CITY OF CRANSTON, by and through Robert F. Strom, in his capacity as Director of Finance, and by and through the School Committee of the City of Cranston, and SCHOOL COMMITTEE OF THE CITY OF CRANSTON, by and through Andrea Iannazzi, in her capacity as Chair of the School Committee of the City of Cranston,
Defendants.

MEMORANDUM AND ORDER

This matter is again before the Court on various motions filed by Michael Motaranni, Christian Frangos, Olivia Frangos, Carolyn Mesagno, Lori McClain, Jared McMullen and Ronald L'Heureux (hereinafter identified collectively as "Movants"). These individuals seek to change the outcome of the Court's earlier decision in this matter, entered on January 11, 2012, granting Plaintiff's Motion for a Permanent Injunction, and ordering the immediate removal of the Christian prayer mural from the walls of the auditorium of the public high school, called Cranston West, located in Cranston, Rhode Island. ___ F. Supp.2d ___ (D.R.I. 2012).[1]

After this Court's Order was entered, Cranston initially

[1] 2012 WL 89965, D.R.I., January 11, 2012.

covered the mural with plywood, as was stipulated by the parties on February 8, 2012. This writer read in The Providence Journal, on February 17, 2012, that the Cranston School Committee had voted the previous evening to abide by this Court's decision, rather than pursue an appeal. On March 5, 2012, the parties filed an additional stipulation with this Court. This stipulation provided Defendants with additional time to file objections limited to the subject of attorneys' fees, "[I]n light of the fact and on condition that the School Prayer Mural has been permanently removed from Cranston High School West." The parties ironed out their differences over fees and this Court signed the final judgment on March 7, 2012.

When Movants filed their motions on March 7, 2012, this matter was already "a done deal." Nonetheless, the Court will briefly address the various motions. The main motions are (1) a Motion to Intervene in this closed case, (2) a Motion to Stay the Decision and Order, and finally (3) a Motion for Reconsideration. A single lengthy memorandum was filed in support of all three motions. In order to file a Motion to Stay or a Motion for Reconsideration, it is necessary for Movants to first intervene in the litigation in a procedurally proper way and become parties in this case. In order to intervene, Movants must comply with Rule 24 of the Federal Rules of Civil Procedure; specifically, part (b), which provides for permissive intervention as follows:

> **(b) Permissive Intervention.**
> **(1) *In General.*** On timely motion, the court may permit anyone to intervene who:
> (A) is given a conditional right to intervene by a federal statute; or
> (B) has a claim or defense that shares with the main action a common question of law or fact.

(Emphasis added).

Courts generally look with disfavor on motions to intervene that are filed after the entry of final judgment. Garrity v. Gallen, 697 F.2d 452, 455 n. 6 (1st Cir. 1983). The Garrity Court wrote:

> The timeliness requirement was not designed to penalize prospective intervenors for failing to act promptly; rather, it insures that existing parties to the litigation are not prejudiced by the failure of would-be intervenors to act in a timely fashion.

Id. at 455. Moreover, the "determination of the timeliness is within the sound discretion of the district court." Id. at 455.

The Court recognizes that Movants filed their motions on the same day that the final judgment was signed. Nevertheless, the Court determines that the Motion to Intervene is not timely. The matter of the prayer mural was covered extensively by the news media. Moreover, it seems apparent to the Court that at least some of the would-be intervenors attended some or all of the many public hearings held by the Cranston School Committee in connection with this

issue. By mid-January, when the Court issued its Decision and Order, Movants knew that the Court's ruling had not gone as they had hoped. Over a month went by before the School Committee was able to convene, listen to extensive public testimony and ultimately vote not to appeal the ruling. After that, Defendants made arrangements and carried out the permanent removal of the banner. Additional time was spent haggling over attorneys' fees. Two and half weeks after the School Committee's vote, final judgment was entered, bringing this drawn-out affair to a conclusion, after almost two years of divisive community debate. In short, this Court holds that Movants' Motion to Intervene, under the circumstances, is not timely. In addition, Movants have made no showing that they have standing in this matter. It is time to move on.

The denial of Movants' motion to intervene renders all of their other motions moot. However, the Court will also briefly address Movants' memorandum of law which sets forth a mishmash of misguided and frivolous arguments. They assert that compelling and dispositive arguments were presented to the Cranston School Committee at the public hearings that were not included in Defendants' briefs to this Court. Movants believe that these arguments, if considered by this Court, would have resulted in a different ruling. They are wrong. As Alexander Pope, an English poet and essayist, once wrote,

“A little learning is a dangerous thing.”

In essence, Movants argue that, not just this Court’s January 2012 ruling, but virtually all Supreme Court rulings on the Establishment Clause dating back to the Supreme Court’s decision in Everson v. Board of Ed. of Ewing Township, 330 U.S. 1 (1947), have been wrongly decided in contravention of the United States Constitution, and other controlling laws. In particular Movants cite “the Aitken act of 1872 authorizing the use of bibles in all schools in America.” The Aitken Bible was the first bible printed in English in the United States, in 1782, during the Revolutionary War, when England’s embargo prevented the importation of bibles to the colonies. Prior to publication, Aitken sought and received authorization from the Continental Congress, which approved the publication on September 10, 1782. Congress’ resolution was included in the Aitken Bible, and reads:

> RESOLVED,
>
> THAT the United States in Congress assembled highly approve the pious and laudable undertaking of Mr. Aitken, as subservient to the interest of religion, as well as an instance of the progress of arts in this country, and being satisfied from the above report of his care and accuracy in the execution of the work, they recommend this edition of the Bible to the inhabitants of the United States, and hereby authorize him to publish this Recommendation in the manner he shall think proper.

CHA. THOMSON, Sec'ry.[2]

Beyond the putative mandates of the Aitken Act, Movants also cite the United States Constitution, the Rhode Island Constitution, and an assortment of excerpted quotations of the Founding Fathers and various historians concerning the role of Christianity in our country. Interspersed in this catalog of historical writings is Movants' argument:

> That the federal court's sixty-six years of systematically removing Christianity from all public places in contravention of the Aitken Act of Congress and the true meaning of the First Amendment, to protect our Godly Foundation clearly found in the writings of the founders and even court decisions defining religion hereinafter, establishes Atheism and/or "non religion" as the religion of choice, may constitute judicial legislation, and violating separation of powers, the establishment and free exercise clause of the First Amendment inter alia.

The Court characterizes this argument as frivolous because Movants concede as part of their argument that this

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[2] The Court reprints this resolution from a photographic facsimile page of the Aitken Bible, found at www.wallbuilders.com, a website "dedicated to presenting American's forgotten history and heroes, with an emphasis on the moral, religious, and constitutional foundation on which America was built." Wallbuilders also published a small book, titled "The New England Primer," dated 1777, which movant Ronald L'Heureux sent to this Court in December 2011. The book contains Christian teachings. The Constitution became effective in 1789, with the ten Amendments comprising the Bill of Rights being ratified in 1791. Religious practices followed in public schools before that time are irrelevant to the present dispute.

Court's decision is in line with a half-century of Supreme Court precedent. This Court is not merely guided, but is bound, by Supreme Court precedent. The obligation to follow precedent, known as the doctrine of *stare decisis*, is a bedrock of the rule of law on which the stability of our nation is based. The First Circuit has stated:

> The doctrine of stare decisis provides that courts must abide by or adhere to cases that have been previously decided and that a legal decision on an issue of law that is contained in a final judgment is binding in all future cases on the court that made the legal decision and all other courts that owe obedience to that court. In other words, the doctrine of stare decisis incorporates two principles: (1) a court is bound by its own prior legal decisions unless there are substantial reasons to abandon a decision; and (2) a legal decision rendered by a court will be followed by all courts inferior to it in the judicial system.

U.S. v. Rodriguez-Pacheco, 475 F.3d 434 (1st Cir. 2007)(quoting 3 J. Moore et al., Moore's Manual–Federal Practice and Procedure § 30.10[1](2006)), see also Payne v. Tennessee, 501 U.S. 808, 827 (1991)("*Stare decisis* is the preferred course because it promotes the evenhanded, predictable, and consistent development of legal principles, fosters reliance on judicial decisions, and contributes to the actual and perceived integrity of the judicial process.").

For this Court in this case, the clear dictates of Supreme Court precedent go back to Engel v. Vitale, 370 U.S.

421, 430 (1962), which prohibited the recitation of prayer in public schools, writing that, "[N]either the fact that the prayer may be denominationally neutral nor the fact that its observance on the part of the students is voluntary can serve to free it from the limitations of the Establishment Clause..." The Supreme Court continued:

> When the power, prestige and financial support of government is placed behind a particular religious belief, the indirect coercive pressure upon religious minorities to conform to the prevailing officially approved religion is plain.

370 U.S. at 431. The guidance provided by the Supreme Court in Stone v. Graham, 449 U.S. 39 (1980), is equally unequivocal. In that case, the Supreme Court held that it was impermissible for Kentucky public schools to post copies of the Ten Commandments in classrooms. For further analysis and explanation, the Court refers the reader to its earlier decision in this matter. Suffice it to say that the Supreme Court precedents on school prayer are clear, and this Court is bound to adhere to that law.

Conclusion

For the reasons stated above, the motions filed by Michael Motaranni, Christian Frangos, Olivia Frangos, Carolyn Mesagno, Lori McClain, Jared McMullen and Ronald L'Heureux are hereby denied. This case is over. Anyone who hereafter tries

to revive this matter risks the imposition of sanctions under Fed. R. Civ. P. 11. It is so ordered.

/s/Ronald R. Lagueux
Ronald R. Lagueux
Senior United States District Judge
April 12, 2012