

Vanderpuye/GuynesBrief

Introduction;

Trinity Lutheran Church in Columbia, Missouri manages a licensed preschool and daycare called *The Learning Center*. In 2012 Trinity applied for a grant, which was denied by the DNR because of Article I, Section 7 of the Missouri Constitution.

Statement of Facts;

In 2012, Trinity Lutheran Church applied for a grant to replace the Learning Center's playground surface, disclosing that the Learning Center was part of Trinity Church. On May 21, 2012, the Solid Waste Management Program Director wrote the Learning Center's Director, stating how "Article I, Section 7 of Missouri Constitution specifically provides that "no money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, section or denomination of religion."” A Solid Waste Management Program Planner subsequently advised the Solid Waste Management District Director that Trinity Church's application ranked fifth out of forty four applications in 2012, and that fourteen projects were funded.

Trinity Lutheran commenced this action, asserting federal question jurisdiction over claims that the denial of its Scrap Tire application violated the First Amendment's Establishment Clause. The Complaint invoked the district court's supplemental jurisdiction over a fifth cause of action, alleging that DNR's denial violated Article I, Section 7, of Missouri Constitution.

Counterpoint 1; Missouri cannot give a direct grant to Trinity Lutheran without sustaining appropriate safeguards against using taxpayers funds for religious profit.

The Establishment Clause prohibits the government from funding religious businesses if the funding will be used for religious purposes. Trinity Lutheran wants the funding but cannot guarantee that the playground will not be used for religious practices once funded. In *Committee for Public Education & Religious Liberty v. Nyquist*, 413 U.S. 756, 763-64 (1973), the court dissolved a law that, if passed, meant that secondary schools, including religious schools would have been supplied with a direct cash aid that would have been used to fix school equipment and create a better working environment for the kids. Though it was not questioned that New York's intentions lied in "preserving a healthy and safe educational environment for its schoolchildren." *id.* at 773, the aid still could not be granted because it neglected to protect against the schools using it for religious gain, under

the Establishment Clause. “No attempt is made to restrict payments to those expenditures related to the upkeep of facilities used exclusively for secular [non-religious] purposes, nor do we think it possible within the context of these religion-oriented institutions to impose such restrictions. Nothing in the statute, for instance, bars a qualifying school from paying out of state funds the salaries of employees who maintain the school chapel, or the cost of renovating classrooms in which religion is taught, or the cost of heating and lighting those same facilities.” *id.* at 774.

Counterpoint 2; Trinity Lutheran cannot receive a direct grant without ensuring it would not be used for religious advancement.

Trinity Lutheran has failed to ensure that its mission is non-religion affiliated and that the Learning Center is not in control of a church. In the absence of these certifications, there is no way to guarantee that the grants Trinity Lutheran may receive will not be used for the promotion of religion in violation of the Establishment Clause. Even if Trinity Lutheran did provide these requirements, it would still cause constitutional interests to be at stake because the State has no way to enforce these restrictions. Unlike in *Tilton* and *Roemer*, the Statute is not permitted to monitor the playground facilities to make sure they are being used for religious activity. There also seems to be no system set in place for the State to get the full or part of the grant refunded to them, if it is used in violation to the Establishment Clause. Based on the past history, Trinity Lutheran integrates religious teaching into their preschool and is then likely to use the taxpayer funded playground for religiously affiliated activities. Through the day care, the church teaches a christian world of view. The Learning Center incorporates daily religious lessons and uses the daycare to educate the kids of church members and non-church members about the gospel. The daycare parent handbook, states how their “daily morning schedule consists of Jesus Time/chapel, music, small group time, learning centers, gym and playground time.” The curriculum is “Christ-centered in its approach to teaching” and prayer is a fundamental part of every day. The staff members are committed to providing an environment of support which “stems from the love of our Lord and a love for the children.” “*Parent Handbook.*” *Trinity Lutheran Child Learning Center. N.p., 26 Feb. 2015. Web. 23 Feb. 2017.* <<https://tlclckids.com/enroll/parent-handbook/>>.

Additionally, the church could use its playground as for religious purposes such as Sunday Bible School, Vacation Bible School and other youth group affiliated meetings. Based on Trinity Lutheran’s history and the lack of producers in place to monitor any misuse of the government grant, the denial of the DNR grant did not violate the Establishment Clause but rather protected the public treasury from being misused.

Conclusion;

In this brief the Respondent has proved that Trinity Lutheran has failed to guarantee to the certifications that the taxpayer funded playground will not be used for any religious activities or religious advancement. Furthermore, Trinity Lutheran has proven, through the daycare parent handbook, that religious lessons and prayer is part of their curriculum. Therefore, the denial of the direct cash aid raises no valid Establishment Clause concerns.

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