IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 11-50486

CHRISTA SCHULTZ, Individually and as parents and Guardians of minor child, C.S., a student in the Medina Valley Independent School District; DANNY SCHULTZ, individually and as parents and Guardians of minor child, C.S., a student in the Medina Valley Independent School District; TREVOR SCHULTZ, Individually,

Plaintiffs-Appellees

v.

MEDINA VALLEY INDEPENDENT SCHOOL DISTRICT,

Defendant-Appellant

Appeal from the United States District Court for the Western District of Texas

Before DAVIS, SMITH and SOUTHWICK, Circuit Judges.

PER CURIAM:

On this incomplete record at this preliminary injunction stage of the case, we are not persuaded that plaintiffs have shown that they are substantially likely to prevail on the merits, particularly on the issue that the individual prayers or other remarks to be given by students at graduation are, in fact, school-sponsored. We also observe in particular that the plaintiffs' motion may be rooted at least in part in circumstances that no longer exist. For example, the school has apparently abandoned including the words "invocation" and "benediction"

on the program. The motion also did not expressly address the involvement of the valedictorian in the graduation ceremony.

IT IS THEREFORE ORDERED that the emergency motion of the appellants to dissolve the temporary restraining order and preliminary injunction is GRANTED; accordingly the temporary restraining order and preliminary injunction entered by the district court are DISSOLVED, and the case is REMANDED to the district court for possible further proceedings.

IT IS FURTHER ORDERED that the opposed motion of Angela Hildenbrand to intervene is DENIED without prejudice. She is hereby permitted to proceed as *amicus curiae.*

IT IS FURTHER ORDERED that the opposed motion of Angela Hildenbrand for relief from temporary restraining order and preliminary injunction is DENIED as moot.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

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CLERK

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NEW ORLEANS, LA 70130

June 03, 2011

Mr. William Putnicki
Western District of Texas, San Antonio
United States District Court
655 E. Durango Boulevard
Suite G65
San Antonio, TX 78206

No. 11-50486, Christa Schultz, et al v. Medina Valley Indep Sch Dist
USDC No. 5:11-CV-422

Enclosed is a copy of the judgment issued as the mandate.

Sincerely,

LYLE W. CAYCE, Clerk

By: Mary Stewart
Mary C. Stewart, Deputy Clerk
504-310-7694

cc w/encl:
Mr. Adam Warren Aston
Honorable Samuel Fred Biery Jr.
Mr. Donald H. Flanary III
Ms. Ayesha N. Khan
Mr. Kelly J. Shackelford
Mr. Joe Ruben Tanguma II
Mr. Donald Craig Wood