

**UNITED STATES DISTRICT COURT  
DISTRICT OF VERMONT**

ROBIN and ROBERT VOITLÉ, on behalf of themselves  
and for their minor school-age children, Alexia Voitle and  
Nick Voitle, and MELVIN and ANNE DOWNS, on behalf  
of themselves and for their minor school-age children,  
Kaytlyn Oliver and Emma Downs,  
*Plaintiffs*

v.

Civil No. \_\_\_\_\_

WALLY ROGERS, individually and in his official capacity  
as a teacher at the Irasburg Village School,  
PAUL SIMMONS, individually and in his official capacity  
as principal of the Irasburg Village School,  
the IRASBURG SCHOOL DISTRICT, and  
the ORLEANS CENTRAL SUPERVISORY UNION,  
*Defendants*

**COMPLAINT**

**Introduction**

1. This suit is a challenge to the longstanding practice of religious instruction in the Irasburg Village School in Irasburg, Vermont, and the acquiescence to, and endorsement of, such practice by school administrators and school district officials. By acting as they have, the Defendants have violated rights guaranteed to the Plaintiffs by the First and Fourteenth Amendments to the United States Constitution.

**Jurisdiction and Venue**

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331, 1343(a), and 2201.
3. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

## **Parties**

4. Robert and Robin Voitle are residents and taxpayers of Irasburg, Vermont.
5. Their daughter, Alexia Voitle, is a fourteen year old student in the eighth grade at the Coventry Village School in Coventry, Vermont, and was a student of Wally Rogers at the Irasburg Village School for one year.
6. Their son, Nicolas Voitle, is an eleven year old now being home schooled who, but for the conduct of the defendants, would currently be a student of Wally Rogers at the Irasburg Village School.
7. Melvin and Anne Downs are residents and taxpayers of Irasburg, Vermont.
8. Their older daughter, Kaytlyn Oliver, is a thirteen year old student in the eighth grade at the Orleans Elementary School in Orleans, Vermont, and was a student of Wally Rogers at the Irasburg Village School for two years.
9. Their younger daughter, Emma Downs, is a seven year old student in the first grade at the Brownington Central School in Brownington, Vermont, and, but for the conduct of the defendants, would be a student at the Irasburg Village School.
10. At all times relevant to this suit, Wally Rogers was and is a teacher at the Irasburg Village School.
11. At all times relevant to this suit, Wally Rogers did and does teach the subject of language arts to students in the sixth, seventh, and eighth grades at the Irasburg Village School.
12. At all times relevant to this suit, Paul Simmons was and is a teacher at, or the principal of, the Irasburg Village School.
13. Defendant Irasburg Village School District is a school district located in Irasburg, Vermont, and governs the Irasburg Village School.
14. The Irasburg Village School is a public school offering instruction to students from

kindergarten to eighth grade.

15. Defendant Orleans Central Supervisory Union is a supervisory union located in Orleans, Vermont, and comprises seven school districts, including the Irasburg Village School District.
16. At all times relevant to this suit, each defendant was and is a “person” acting under color of law for purposes of 42 U.S.C. § 1983.

### **Facts**

17. Alexia Voitle and Kaytlyn Oliver were students in the seventh grade class at the Irasburg Village School, for which Defendant Rogers was their teacher.
18. While Alexia Voitle and Kaytlyn Oliver were students in his class, Defendant Rogers required students to participate in a reading program purchased by the school district as part of the curriculum.
19. As part of this program, students were required to read a number of books of their choosing from a list of titles drawn up by Defendant Rogers.
20. Each book was assigned point values, with the students having to read books from the list and then having to pass quizzes based on the books.
21. A significant part of the students’ grade was based on the total points each student amassed, and a list of standings reflecting the total points accumulated by each student was posted in the classroom.
22. Although the Irasburg Village School had produced a master list of acceptable books, Defendant Rogers added to the master list by including overtly Christian books for his students to read.
23. The overtly Christian books added by Rogers were purchased using public funds.

24. Defendant Rogers assigned the overtly Christian books on his list a higher number of points than the non-religious books, thus creating an incentive for students to read the religious books he had added to the list.
25. During early December 2007, during class time and while acting as their teacher, Defendant Rogers distributed to all of his seventh grade students, including Alexia Voitle and Kaytlyn Oliver, a statement entitled *Why Jesus Is Better Than Santa Claus*.
26. The statement asserted, among other things, that “Jesus rides on the wind and walks on the water,” and that “Jesus became our gift and died on the tree,” while exhorting the students to “put Christ back in Christmas,” because Jesus is “the reason for the season.”
27. While Alexia Voitle and Kaytlyn Oliver were students in his class, Defendant Rogers had a copy of the Ten Commandments displayed on the wall of his classroom.
28. During class time and while acting as their teacher, Defendant Rogers directed Alexia Voitle, Kaytlyn Oliver, and the rest of his seventh grade class to his personal web page, which contained sectarian religious and Christian information dealing with creationism and Christian fellowship organizations.
29. Utilizing school procedure, the Plaintiffs filed a complaint about Rogers with Defendant Paul Simmons.
30. Defendant Simmons reviewed the Plaintiffs’ complaint, but failed to correct the problems identified by Plaintiffs.
31. Defendant Rogers became angry when he learned of Alexia Voitle and Katylyn Oliver’s pleas for help to school administrators, and thereafter singled them out in class for derision for having complained about his behavior.
32. Defendant Rogers’s treatment of Alexia Voitle and Kaytlyn Oliver encouraged other students in the school to belittle the two girls for seeking assistance.

33. Over time, students began to taunt the Plaintiffs' younger children, Emma Downs and Nicolas Voitle, about Alexia and Kaytlyn's failed attempt to stand up to Defendant Rogers.
34. Seeing no forthcoming assistance to their children, the Plaintiffs contacted the Irasburg School Board, seeking to have Defendant Rogers's illegal behavior stopped.
35. Despite having knowledge of prior complaints about Defendant Rogers's practices, and despite overwhelming evidence of proselytizing and other inappropriate conduct by Rogers, the school board failed to redress the Plaintiffs' complaint.
36. Realizing that the school board would not correct Rogers's teaching methods, the Plaintiffs sought assistance from the supervisory union by contacting Superintendent Stephen Urgenson.
37. Despite having knowledge of Rogers's practices, and despite having received prior complaints from others about Rogers's classroom behavior, the supervisory union failed to redress the Plaintiffs' complaint.
38. Upon learning that neither the school board nor the supervisory union intended to correct Rogers's behavior, the Plaintiffs requested assistance in arranging schooling for their children that did not involve Defendant Rogers.
39. In response to the Plaintiffs' request, the school district agreed to pay for the children to attend other schools.
40. Accordingly, in 2008, Alexia Voitle enrolled in the Coventry School, Kaytlyn Oliver enrolled in the Orleans School, Emma Downs enrolled in the Brownington School, and Robert and Robin Voitle chose to home-school Nicolas Voitle.
41. This alternative arrangement imposed costs upon the Plaintiffs that they would not otherwise have had to bear, in the form of transportation and, in the case of the Voitle

family, time to home-school Nicolas.

42. The school district informed the Plaintiffs shortly after the 2008-2009 school year began that it would only pay for one year of schooling, and billed Robin and Robert Voitle approximately \$400 for what it claimed to be the difference in tuition between the Irasburg Village School and the Orleans School.
43. Having refused to fully reimburse the parents for the costs of the relocation and affirmatively refused to secure the necessary funding for more than just the present school year, the school board and supervisory union have left the Plaintiffs in the unenviable position of not knowing how their children will be schooled in the next year.

#### **Count 1: Wally Rogers**

44. Paragraphs 1-43 are incorporated by reference as if set forth at length here.
45. Defendant Rogers's presentation of matters of religious faith in a public school classroom constitutes an endorsement and advancement of religion in violation of the First Amendment to the United States Constitution.
46. Defendant Rogers's derision and harassment of Alexia Voitle and Kaytlyn Oliver in retribution for their expressing a preference not to be exposed to religion in the classroom constitutes retaliation in violation of the First Amendment to the United States Constitution.
47. Defendant Rogers's tacit encouragement of other students to do the same to all of the Plaintiffs' children, constitutes an endorsement and advancement of religion, and retaliation, in violation of the First Amendment to the United States Constitution.
48. Defendant Rogers's use of public funds to purchase religious material for use in his

classroom as set forth above violates the First Amendment to the United States Constitution.

49. Defendant Rogers's presentation of matters of religious faith in a public school classroom materially interferes with the Plaintiffs' right to direct the religious upbringing of their children and, as such, is violative of the Fourteenth Amendment to the United States Constitution.
50. Defendant Rogers's derision and harassment of Alexia Voitle and Kaytlyn Oliver in retribution for their expressing a preference not to be exposed to religion in the classroom materially interferes with the Plaintiffs' right to direct the religious upbringing of their children and, as such, is violative of the Fourteenth Amendment to the United States Constitution.
51. Defendant Rogers's tacit encouragement of other students to do the same to all of the Plaintiffs' children materially interferes with the Plaintiffs' right to direct the religious upbringing of their children and, as such, is violative of the Fourteenth Amendment to the United States Constitution.

### **Count 2: Paul Simmons**

52. Paragraphs 1-51 are incorporated by reference as if set forth at length here.
53. Defendant Simmons's failure to aid the Plaintiffs in stopping Defendant Rogers's proselytizing and harassment, despite Plaintiffs' request for that aid, constitutes an endorsement and advancement of religion in violation of the Establishment Clause of the United States Constitution.
54. Defendant Simmons's failure to aid the Plaintiffs in stopping Defendant Rogers's proselytizing and harassment, despite Plaintiffs' request for that aid, materially interferes

with the Plaintiffs' right to direct the religious upbringing of their children and, as such, is violative of the Fourteenth Amendment to the United States Constitution.

**Count 3: The Irasburg School District**

- 55. Paragraphs 1-54 are incorporated by reference as if set forth at length here.
- 56. The Irasburg School District's expenditure of public money on religious materials used by Defendant Rogers as set forth above constitutes a violation of the First Amendment to the United States Constitution.
- 57. The Irasburg School District's custom of accommodating religious instruction in the Irasburg Village School as set forth above violates the First Amendment to the United States Constitution.
- 58. The Irasburg School District's action and inaction as set forth above is violative of the Plaintiffs' rights to direct the religious upbringing of their children, in contravention of the Fourteenth Amendment to the United States Constitution.

**Count 4: The Orleans Central Supervisory Union**

- 59. Paragraphs 1-58 are incorporated by reference as if set forth at length here.
- 60. The Orleans Central Supervisory Union's expenditure of public money on religious materials used by Defendant Rogers as set forth above constitutes a violation of the First Amendment to the United States Constitution.
- 61. The Orleans Central Supervisory Union's custom of accommodating religious instruction in the Irasburg Village School as set forth above violates the First Amendment to the United States Constitution.
- 62. The Orleans Central Supervisory Union's action and inaction as set forth above is

