

No. 24-4101

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

YOUTH 71FIVE MINISTRIES,
Plaintiff-Appellant,

v.

CHARLENE WILLIAMS, Director of the Oregon Department of Education,
in her individual and official capacities, et al.,
Defendants-Appellees.

On Appeal from the United States District Court
for the District of Oregon
Case No. 1:24-cv-00399-CL

**YOUTH 71FIVE MINISTRIES' RULE 27-3 CERTIFICATE FOR
EMERGENCY MOTION
RELIEF REQUESTED BY AUGUST 9, 2024**

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The undersigned counsel certifies the following:

(i) Attorneys' names and contact information.

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(ii) Facts showing the nature and existence of the emergency.

Youth 71Five Ministries is a Christian, youth-mentoring ministry that has participated in Oregon's Youth Community Investment Grant Program for many years. It has fulfilled the Program's goals and objectives without issue and was again awarded grants for the 2023-25 grant cycle, which spans July 1, 2023, to June 30, 2025. In late 2023, Department officials kicked the ministry out of the Program and stripped it of over \$400,000 in grant awards. They did so after an anonymous person complained that 71Five's website noted the ministry hires employees and engages volunteers who share its Christian faith.

71Five's unconstitutional exclusion from the Program has already deprived it of reimbursements for over \$145,000 spent to date to continue critical programs and services for at-risk youth. That amount is climbing with each passing day. Unless the grants are reinstated, the nonprofit ministry will spend at least \$300,000 when the current grant cycle ends in June 2025—money it will never get back if the State has its way with qualified immunity.

With its finances rapidly depleting, 71Five has been forced to forgo many ministry opportunities and will miss many more without an injunction. For example, the financial strain is preventing 71Five from making much-needed repairs to one of its youth centers, replacing worn bikes and safety equipment for its youth mountain-biking program,

expanding its VoTech program to other needy communities, and hiring for an open Campus Ministry Director position that needs to be filled this August for 71Five to effectively serve students when they return for the 2024-25 school year. Such lost opportunities can never be recovered.

Given these facts, 71Five requests the following injunction:

1. Reinstating 71Five's participation in the 2023-25 Youth Community Investment Grant Program, allowing it to seek reimbursement from the Department for eligible costs and expenses under the grants previously awarded to it;
2. Enjoining the Department from requiring 71Five to agree with or abide by their newly adopted nondiscrimination requirement ("New Rule") as a condition to participate in the Program, to the extent that the New Rule would prohibit 71Five from preferring employees and volunteers who share its faith; and
3. Enjoining the Department from terminating, rescinding, or refusing to enter into any future contracts or agreements with 71Five related to the Program because of 71Five's religious character or exercise, including its religious exercise of preferring employees and volunteers who share its faith.

(iii) Why the motion could not have been filed earlier.

The district court denied 71Five's motion for preliminary injunction and dismissed the *entire* case based on qualified immunity on June 26, 2024, but it did not enter final judgment until July 1, 2024.

71Five filed its notice of appeal that same day, and acting pursuant to Fed. R. App. P. 8(a)(1), it moved for an injunction pending appeal with the district court two days later. 71Five asked the district court to expedite the briefing schedule, but the district court did not act on that request. Rather, the district court waited to deny the motion until July 18. 71Five filed this emergency motion the very next day.

(iv) Notice and service on the opposing parties' counsel.

71Five served its notice of appeal and district court motion for injunction pending appeal on opposing counsel the day they were filed. That motion notified Appellees that 71Five intended to file a motion for injunction pending appeal in this Court if the district court did not grant the requested relief. Appellees' counsel confirmed on July 18 via email that they would oppose the motion. Counsel will email a PDF copy of this motion to Appellees' counsel immediately after it is filed.

(v) Whether relief was first sought in the district court.

71Five first sought relief in the district court on July 3, 2024. The district court denied that relief on July 18, 2024.

Dated: July 19, 2024

s/ Jeremiah Galus

Jeremiah Galus
Counsel for Appellant