

1 Christine P. Sun (SBN 218701)
2 Michael T. Risher (SBN 191627)
3 Novella Y. Coleman (SBN 281632)
4 AMERICAN CIVIL LIBERTIES UNION
5 FOUNDATION OF NORTHERN CALIFORNIA, INC.
6 39 Drumm Street
7 San Francisco, California 94111
8 Telephone: (415) 621-2493
9 Facsimile: (415) 255-8437
10 Email: csun@aclunc.org
11 mrisher@aclunc.org
12 ncoleman@aclunc.org

13 Delia Parr (SBN 242458)
14 Nicholas Mazanec (SBN 235462)
15 CALIFORNIA INDIAN LEGAL SERVICES
16 324 F Street
17 Eureka, CA 95501
18 Telephone: (707) 443-8397
19 Facsimile: (707) 443-8913
20 Email: dparr@calindian.org
21 nmazanec@calindian.org

22 Matthew Campbell (*pro hac vice* forthcoming)
23 Joel West Williams (*pro hac vice* forthcoming)
24 NATIVE AMERICAN RIGHTS FUND
25 1506 Broadway
26 Boulder, CO 80302-6296
27 Telephone: (303) 447-8760
28 Facsimile: (303) 443-7776
Email: mcampbell@narf.org
williams@narf.org

Attorneys for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF FRESNO

Christian Titman,

Plaintiff,

v.

Clovis Unified School District,

Defendant.

Case No.

15 CE CG 01717

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

California Education Code §§ 48907, 48950;
California Constitution Article I §§ 2, 4

TRO requested

1
2
3
4
5
6
7
8
9
10
11

INTRODUCTION

1. Plaintiff Christian Titman wishes to wear and display a small, approximately 5-inch eagle feather on his cap at his high-school graduation this Thursday, June 4, 2015, in order to express and honor his Native American heritage and his family, his academic achievement in graduating high school on time, and for religious and spiritual reasons. Defendant Clovis Unified School District refuses to let him do so, however, even though it lets other students wear some other insignia at graduation. Efforts over the past month to resolve the issue have failed. The District's refusal violates the rights to student free expression protected by the California Constitution and the Education Code and the right to free exercise of religion under the California Constitution.

12
13
14
15
16
17
18
19
20

2. Christian therefore brings this suit asking this Court to issue a temporary restraining order and injunctive relief prohibiting the District from interfering with these rights. He also requests declaratory relief and nominal damages so that those who follow him will not have to face this same type of censorship of speech and religious expression.

JURISDICTION AND VENUE

21
22
23
24
25
26
27
28

3. This Court has jurisdiction under article VI, section 10, of the California Constitution and California Code of Civil Procedure § 410.10.

4. Venue in this Court is proper because the action arose in this County and Defendant is situated in this County. *Id.* at §§ 393(b), 394(a).

PARTIES

5. Plaintiff Christian Titman is an 18-year-old senior at Clovis High School who will graduate this Thursday, June 4, 2015. The ceremony begins at 7:30 p.m. Christian is an enrolled member of the Pit River Tribe, which is a federally recognized Indian tribe.

6. Defendant Clovis Unified School District is a K-12 public school district established by the State of California with control over Clovis High School and its policies, including the policies here at issue. According to its website, "the Mission of Clovis High

1 School is to ensure that all students will be given every opportunity to maximize their potential
2 in the areas of **Mind, Body, and Spirit**, enabling them to become productive, contributing
3 members of our society.”

4 7. Native American students represent a minority in the District; the student
5 population of the District includes only 0.8% Native American students.

6 **FACTS**

7 8. An important aspect of Christian’s culture and religious beliefs as a Native
8 American is the sacred nature of eagle feathers. Both bald and golden eagles (and their
9 feathers) are revered and considered sacred in Pit River culture and in many other Native
10 American cultures. In fact, federal law recognizes this cultural importance by providing
11 exemptions from the Bald and Golden Eagle Protection Act – which generally makes it a crime
12 to possess or transfer eagle feathers – to specifically allow Native Americans such as Christian
13 to possess and gift these feathers. The gift of an eagle feather to wear at a ceremony is a great
14 honor given in recognition of an important transition. Eagle feathers are worn with pride and
15 respect. The cultural and spiritual traditions of Christian, the Pit River Tribe, and many Native
16 Americans call for the feathers to be worn on the head. When a person is given an eagle feather
17 to wear for a certain occasion or ceremony, it is often seen as sign of disrespect or dishonor to
18 not wear the feather.

19 9. The Pit River Tribe supports and celebrates its children’s academic
20 achievements. Graduation from high school is an accomplishment that the Tribe holds in high
21 esteem, and for good reason.

22 10. Nationwide, graduation rates for Native American students are low, and 22% of
23 American Indians over age 25 have not finished high school.¹ Native American students are
24 behind their peers in reading and math,² and their performance has not improved over time
25

26
27 ¹ Executive Office of the President, 2014 Native Youth Report, at 14 (2014).

28 ² The Education Trust (2013), The State of Education for Native Students, at 5.

1 compared to other major ethnic groups.³ For the 2011-2012 school year, 67% of Native
2 Americans graduated high school in four years, the lowest four-year high school graduation
3 rate of any other racial or ethnic group.⁴ Only one in four Native American graduates that took
4 the ACT scored at the college-ready level in math, and only one third in reading.⁵ Likewise, in
5 2010, Native Americans represented only one percent of total postsecondary enrollment
6 nationwide.⁶

7 11. In California, the overall high school graduation rate is 78.7%, but for Native
8 Americans it is 72.3%, a 6.4% difference.⁷ The Native American high school dropout rate in
9 California for 2011-2012 remains higher than all other ethnic/racial groups in the state except
10 for Hispanic/Latinos despite the fact that Native Americans comprise 1.9% of state
11 demographics and Hispanic/Latinos comprise 37.6% of the state population.⁸ Further, 75% of
12 Native American high school graduates in California do not complete UC/CSU requirements
13 for college admittance.⁹

14 12. Thus, it is a major milestone for any Native American student to graduate high
15 school. When they do graduate, many young Native American people are given eagle feathers
16 upon graduation from high school to signify achievement of this important educational journey
17 and the honor the graduate brings to his or her family, community, and Tribe.

18 13. The Pit River Tribe views Christian as a role model for other youth in the tribal
19 community who will be inspired by his accomplishment of graduating from high school.
20 Wearing and displaying the eagle feather as he graduates will signify to other young people in
21

22 ³ *Id.* at 6.

23 ⁴ Executive Office of the President, 2014 Native Youth Report 16 (2014).

24 ⁵ The Education Trust (2013). The State of Education for Native Students, at 9.

25 ⁶ Aud, S., Hussar et al., The Condition of Education 2012 at 26, available at
26 <http://nces.ed.gov/pubs2012/2012045.pdf>.

27 ⁷ Dr. Joely Proudfit with Dr. Theresa Gregor, The State of American Indian and Alaska Native
28 Education in California 2014, at 10, available at
https://www.csusm.edu/cicsc/projects/projects_docs_images/CICSC_2014_Education_Report_DOWNLOAD.pdf.

⁸ *Id.*

⁹ *Id.*

1 the tribal community the esteem that the Tribe has for academic achievement, as well as
2 Christian's respect for its cultural and religious traditions. The Tribal Council of the Pit River
3 Tribe therefore supports Christian Titman's right to wear an eagle feather on his cap at his
4 graduation ceremony.

5 14. Christian obtained his eagle feather from his father. The feather is approximately
6 5 inches long, considerably shorter than the 9-inch tassel on the graduation cap that he and all
7 other graduates will wear. He would like to wear the eagle feather attached to the tassel, as
8 shown in Exhibit A to this Complaint.

9 15. Christian wishes to mark and express the solemnity and achievement of his
10 graduation by wearing and displaying his eagle feather on his cap during the ceremony. He and
11 his parents have been requesting permission from the District since the end of April, but the
12 District has repeatedly denied these requests.

13 16. Christian and his family's multiple attempts to obtain permission include the
14 following. On or about April 30, 2015, Christian's mother, Renee Keeton, asked Clovis High
15 School deputy principal Stephanie Hanks whether Christian could wear an eagle feather at
16 graduation. Hanks replied that the District has always denied requests by Native Americans to
17 wear eagle feathers during graduation ceremony. The next day, Hanks informed Christian that
18 the District would likely not allow him to wear an eagle feather.

19 17. On May 7, 2015, Christian's mother and father met with a District assistant
20 superintendent, who informed them that the eagle feather was prohibited during graduation
21 ceremony. On May 13, 2015, a District governing school board member told Christian's
22 mother that the only way the District would allow Christian to wear his eagle feather was to
23 prove that the District was legally required to do so.

24 18. On May 19, 2015, California Indian Legal Services, the Native American Rights
25 Fund and the American Civil Liberties Union of Northern California wrote a letter to the
26 District superintendent in an attempt to resolve this issue without litigation. The letter indicated
27 that Christian wishes to wear the eagle feather during graduation ceremony for religious and
28 spiritual reasons and as a sign of academic achievement, honoring his Native American

1 heritage and his family. The letter explained that federal law and policy recognize the religious
2 significance of eagle feathers to Native Americans. It cited to the District's own board policy
3 providing that the District shall not prohibit or discourage any student from expressing his
4 religious beliefs provided it is in a non-disruptive manner. Finally, the letter cited California
5 Education Code section 48907(a), which provides for students' "right to exercise freedom of
6 speech and of the press including, but not limited to, the use of bulletin boards, the distribution
7 of printed materials or petitions, *the wearing of buttons, badges, and other insignia.*"

8 19. On May 22, 2015, the District superintendent replied with a three-page letter
9 explaining the District's position that it may legally prohibit Christian from wearing an eagle
10 feather during graduation ceremony. The letter stated that the required graduation attire of the
11 standard cap and gown and only enumerated accessories¹⁰ is meant to "signif[y] the unity of
12 the class and the students as graduates of Clovis High School." The letter stated that
13 "graduation is a formal ceremony" and "students are expected to behave in a manner that
14 respects the formality of the ceremony and any behavior that draws undue attention to an
15 individual is not acceptable." The letter asserted that "[t]he purpose behind the graduation dress
16 code and these behavior expectations includes a show of respect for the formality of the
17 graduation ceremony, unity of the graduating class, and also to avoid disruption of the
18 graduation ceremonies that would likely occur if students were allowed to alter or add on to
19 their graduation cap and gown." The letter did not describe or allege any facts supporting
20 Defendant's claims.

21 20. In the days since, Christian, his family, and counsel have tried to resolve this
22 issue with the District, to no avail.

23 21. According to a school memorandum to seniors that provides them with
24 information about ordering caps and gowns, "graduation is a time when you will be able to
25
26

27
28 ¹⁰ The enumerated accessories permitted at graduation ceremony are the California Scholarship Federation (CSF) Gold Cord, CSF Life Pin, Top 20 Medallion, and the National Honor Society (NHS) Sash.

1 show your appreciation to everyone who has supported you in getting to this special moment in
2 your life.”

3 22. As explained with a power-point presentation at an April 13, 2015 Clovis High
4 School parent meeting, graduates will be allowed to wear “CSF cords, [a] NHS sash, [and]
5 academic achievement medallions” over their caps and gowns at graduation.

6 23. A CSF cord is a gold cord that represents membership in the California
7 Scholarship Federation. As the Clovis High School website explains, the CSF is a statewide
8 organization that honors high-school students for their academic achievement and community
9 service. Clovis High School CSF members must meet certain academic requirements and must
10 pay chapter dues each semester. The CFS is not a governmental entity; it is a private, non-profit
11 organization.

12 24. An NHS sash represents membership in the National Honor Society. As the
13 Clovis High School website explains, the NHS is a national organization that recognizes
14 student achievement in scholarship, leadership, service, and character. The NHS is not a
15 governmental entity; it is a private, non-profit organization.

16 25. The presentation also made clear that the school will not allow graduates to wear
17 any other accessories or items over their caps or gowns and that every “student and
18 parent/guardian must sign the senior contract agreeing to abide by the specified dress code and
19 behavior for the ceremony” in order to participate. “Before being admitted into the graduation
20 all participants will be checked for dress code and inappropriate items.” The presentation states
21 that “Students will jeopardize their involvement if they attempt to bring inappropriate items”
22 and that “students who ... disrupt[] the service in any way will face appropriate discipline and
23 will NOT receive [their] diplomas that night.”

24 26. District Board Policy/Administrative Regulation No. 2105, entitled “Dress and
25 Grooming” further states that “Student violations of these regulations are termed willful
26 defiance of the valid authority of the school principal, and the Board directs that the principal
27 may administer any appropriate disciplinary action to include suspension.”
28

1 27. These rules, along with Christian's attempts to get permission to wear and
2 display an eagle feather next to his graduation tassel during the graduation ceremony, make it
3 clear that if he attempts to wear it without permission he will likely face exclusion from the
4 ceremony and discipline that would jeopardize Christian's post-graduation participation in the
5 District's Regional Occupational Program.

6
7 **FIRST CAUSE OF ACTION**
8 **(Violation of California Constitution, Article I § 2(a))**

9 28. Plaintiff incorporates by reference the allegations of the above paragraphs as
10 though fully set forth herein.

11 29. Under Article I § 2(a) of the California Constitution, "Every person may freely
12 speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of
13 this right. A law may not restrain or abridge liberty of speech or press."

14 30. Christian wishes to wear and display his eagle feather in order to express and
15 honor his Native American heritage and his family, his academic achievement, and for
16 religious and spiritual reasons. This expressive conduct is fully protected by this provision.

17 31. Defendant's attempt to prohibit Plaintiff Christian Titman from wearing and
18 displaying his eagle feather at his graduation violates Article I § 2(a) of the California
19 Constitution.

20 **SECOND CAUSE OF ACTION**
21 **(Violation of California Education Code § 48907)**

22 32. Plaintiff incorporates by reference the allegations of the above paragraphs as
23 though fully set forth herein.

24 33. Under Education Code § 48907(a), public school students "shall have the right to
25 exercise freedom of speech and of the press *including, but not limited to*, the use of bulletin
26 boards, the distribution of printed materials or petitions, *the wearing of buttons, badges, and*
27 *other insignia*, and the right of expression in official publications, whether or not the
28 publications *or other means of expression* are supported financially by the school or by use of
school facilities, except that expression shall be prohibited which is obscene, libelous, or

1 slanderous. Also prohibited shall be material that so incites pupils as to create a clear and
2 present danger of the commission of unlawful acts on school premises or the violation of
3 lawful school regulations, or the substantial disruption of the orderly operation of the school.”

4 34. Christian wishes to wear and display his eagle feather in order to express and
5 honor his Native American heritage and his family, his academic achievement, and for
6 religious and spiritual reasons. This expressive conduct is fully protected by this provision.

7 35. Defendant’s attempt to prohibit Plaintiff Christian Titman from wearing and
8 displaying his eagle feather at his graduation violates Education Code § 48907.

9 **THIRD CAUSE OF ACTION**

10 **(Violation of California Education Code § 48950)**

11 36. Plaintiff incorporates by reference the allegations of the above paragraphs as
12 though fully set forth herein.

13 37. Education Code § 48950(a) states that, except in specific circumstances not
14 applicable to this case, “A school district operating one or more high schools ... shall not make
15 or enforce a rule subjecting a high school pupil to disciplinary sanctions solely on the basis of
16 conduct that is speech or other communication that, when engaged in outside of the campus, is
17 protected from governmental restriction by the First Amendment to the United States
18 Constitution or Section 2 of Article I of the California Constitution.”

19 38. Christian wishes to wear and display his eagle feather in order to express and
20 honor his Native American heritage and his family, his academic achievement, and for
21 religious and spiritual reasons. This expressive conduct is fully protected by this provision.

22 39. Defendant has an unlawful rule that subjects Plaintiff Christian Titman to
23 disciplinary sanctions for engaging in his constitutional rights to freedom of expression and
24 exercise of his religious beliefs.

25 40. Defendant’s attempt to prohibit Plaintiff Christian Titman from wearing and
26 displaying his eagle feather at his graduation violates Education Code § 48950.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FOURTH CAUSE OF ACTION
(Violation of California Constitution, Article I § 4)

41. Plaintiff incorporates by reference the allegations of the above paragraphs as though fully set forth herein.

42. Under Article I § 4 of the California Constitution, "Free exercise and enjoyment of religion without discrimination or preference are guaranteed."

43. Christian wishes to wear and display his eagle feather in order to express and honor his Native American heritage and his family, his academic achievement, and for religious and spiritual reasons. This expressive conduct is fully protected by this provision.

44. Defendant's attempt to prohibit Plaintiff Christian Titman from wearing and displaying his eagle feather at his graduation violates Article I § 4 of the California Constitution.

PRAYER FOR RELIEF

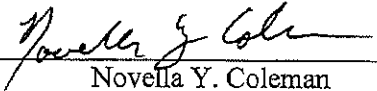
Wherefore, Plaintiff respectfully requests that the Court:

- A. Issue a temporary restraining order and injunctive relief prohibiting Defendant from interfering with or abridging Plaintiff Christian Titman's right to wear and display his eagle feather on his graduation cap during his Clovis High School graduation ceremony, which is currently scheduled for June 4, 2015.
- B. Issue a declaration that Defendant may not prohibit students from wearing religious symbols or insignia at graduation.
- C. Award Plaintiff nominal damages of \$1.00;
- D. Order Defendant to pay Plaintiff's attorneys' fees and costs under Code Civ. Proc. § 1021.5, Education Code § 48950(b), and any other applicable statutes.
- E. Grant Plaintiff such further relief as the Court deems just and proper.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: June 1, 2015

Respectfully submitted,

By: 

Novella Y. Coleman
Attorney for Plaintiff

EXHIBIT A

11-11-11

11-11-11
11-11-11

