

FOR PUBLICATION

FILED

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

APR 3 2023

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FELLOWSHIP OF CHRISTIAN
ATHLETES, an Oklahoma corporation; et
al.,

Plaintiffs-Appellants,

v.

SAN JOSE UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION; et al.,

Defendants-Appellees.

No. 22-15827

D.C. No. 4:20-cv-02798-HSG
Northern District of California,
Oakland

ORDER

Before: MURGUIA, Chief Judge, and CALLAHAN, M. SMITH, IKUTA,
BENNETT, MILLER, BADE, BRESS, FORREST, BUMATAY and SUNG,
Circuit Judges. Dissent by Chief Judge MURGUIA.

A majority of judges have voted to issue an injunction pending resolution of this appeal. Defendants-Appellees San Jose Unified School District Board of Education, Nancy Albarran, Herb Espiritu, Peter Glasser, and Stephen McMahon are hereby ordered forthwith to recognize student chapters affiliated with the Fellowship of Christian Athletes, including the Pioneer High School student chapter, as official “Associated Student Body” approved clubs.

This injunction pending appeal is issued pursuant to Fed. R. App. P. 8 and Fed. R. Civ. P. 62(g) and shall remain in place until we issue an opinion on the merits of this appeal.

FILED

Fellowship of Christian Athletes, et al. v. San Jose Unified School District Board of Education, et al., No. 22-15827

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MURGUIA, Chief Judge, dissenting:

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I respectfully dissent from the grant of injunctive relief pending resolution of this appeal.