IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

ROBERT BASEVITZ,

Plaintiff

v.

FREMONT RE-2 SCHOOL DISTRICT;

RHONDA VENDETTI, Individually and as superintendent of Fremont RE-2 School District;

BRIAN SCHIPPER, Individually and as Principal of Florence High School;

Defendants

COMPLAINT

Plaintiff Robert Basevitz, by and through his attorney Paul Maxon, respectfully states the following:

SUMMARY OF ACTION

1. This is a civil rights case arising out of religious activities at a public high school. This action seeks declaratory and injunction relief and damages for the pattern and practice of the Defendants' endorsement and promotion of religion in a public school setting. Plaintiff states that Defendants' actions are in violation of the Establishment Clause of the First Amendment of the United States Constitution as the Defendants are acting under color of law as defined under 42 USC § 1983. Plaintiff asks that Defendants' actions be declared unconstitutional and illegal, and that this Court enjoin them from engaging in any further such activity.

JURISDICTION

- 2. Jurisdiction is proper in this Court pursuant to 28 US.C. § 1331, because this action arises under the Constitution and laws of the United States.
- 3. This action is brought pursuant to 42 US.C. § 1983 to redress the deprivation, under color of state law, of rights secured by the U.S. Constitution.
- 4. Declaratory relief is authorized pursuant to Rule 57 of the Federal Rules of Civil Procedure and 28 US.C. §§ 2201 and 2202.
- Injunctive relief is authorized pursuant to Rule 65 of the Federal Rules of Civil Procedure.
- 6. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

BACKGROUND AND PARTIES

- 7. Plaintiff Robert Basevitz, a Colorado resident, is a Jewish teacher for Defendant Fremont RE-2 School District ("the District"). He keeps kosher, and is, to his knowledge, the District's only Jewish employee. He is a veteran of the first Gulf War, and, as a religious minority, was motivated to serve in the armed forces to uphold and defend the Constitution.
- 8. Florence High School ("the School") is a nominally public institution operated by Defendant Fremont RE-2 School District in Florence, Colorado. Although it receives state and federal funding and is open to any child of appropriate age and academic level within the District, it operates largely to promote the evangelical Christian ideals of The Cowboy Church at Crossroads ("the Church").

- 9. The Cowboy Church at Crossroads is lead by Pastor Randy Pfaff, and meets every Sunday in the cafeteria of the School. The Church is advertised by two large signs that are hung on school property and are clearly visible to motorists. (Exhibit 1). According to its supporters and the Church itself, its aim is to "get church back into school."
- 10. According to Pastor Pfaff the "mission work" of the Church is The Fellowship of Christian Huskies¹ ("the Fellowship"), a Florence High group he founded in 2011.
 (Exhibit 2). The Fellowship describes itself as a "religious organization" that aims to "let God back in our schools" and to "[bring] others to a saving knowledge of Jesus."
- 11. The Fellowship occasionally claims to be a "student led" group. In fact, the Fellowship is a front designed to allow Pastor Pfaff and the Church to use the school as a platform for his "mission work" of preaching to students and staff. Thus, despite claims of student leadership, Pastor Pfaff has publically stated that he is the group's leader. *Id*. In addition, the "student led" Fellowship has 10 different adult sponsors, including five high school staff members, the School's Principal Defendant Brian Schipper, and four different members of the community who are otherwise unaffiliated with the School. *Id*. Pastor Pfaff, with complicity from Principal Schipper, presents himself to the School's students and staff as an "approved RE-2 school district volunteer." (Exhibit 3).
- 12. Defendant Rhonda Vendetti is the Superintendent of Defendant RE-2, and has publically supported Pastor Pfaff and Principal Schipper's religious activities, despite complaints of their illegality.

3

¹ Huskies are the Florence High School mascot.

THE CHURCH'S UBIQUITOUS PRESENCE AT FLORENCE HIGH SCHOOL

- 13. The cornerstone of Pastor Pfaff and the Church's "mission work" at the School is daily morning prayer in front of the School, at the flagpole.² Either Pastor Pfaff or another member of the Church has been present for this ceremony every day for the last three years. With the School's support, Pastor Pfaff has led these services, ministering to the School's students and staff while holding a bible and using a public address system to preach his evangelical Christian messages. (Exhibit 4). These events are sometimes promoted to the students in advance by the School's staff over its public address system, along with flyers jointly listing Principal Schipper and Pastor Pfaff as contact persons. (Exhibit 5). Numerous faculty members, in including Principal Schipper, participate in services.
- 14. While participating in these events, the School's staff join hands with students in a circle around Pastor Pfaff, bow their heads, and pray. Occasionally, the prayer groups are so large that they completely block access to the School's front doors, so that non-participating students and faculty cannot enter the School's front entrance without interrupting the Church's ceremony. (Exhibit 6).
- 15. In addition to daily prayers in front of the school, Pastor Pfaff and the Church, with the support of the School's administration, routinely minister to staff and students through the distribution of flyers promoting their evangelical Christian views. These flyers quote scripture ("For God so loved the world, that He gave His One and Only Son, Jesus, for you"), advocate for the biblical creation narrative ("The world is not a product of blind

² "See You At The Pole" is a national evangelical Christian movement that encourages students to pray at the flagpole of their schools. Its website recognizes that "it is not legal for adults to lead," the events. See You At The Pole homepage at www.syatp.com; *Doe v. Wilson County School System*, 564 F. Supp. 2d 766 (MD Tenn., 2008).

chance and probability; God created it."), purport to be memos from God to students ("To: You...yes YOU...Melvin, Matilda, Rastus, Ramona...From: GOD), offer behavioral prescriptions based on evangelical Christian doctrine ("Christian young people should stay away from secular Halloween parties..."), and explicitly invoke Christian theology ("Thank you Jesus."). With the support of the School's staff, including Principal Schipper, Pastor Pfaff and the Church distribute these flyers throughout the School, making their presence ubiquitous, including in teacher mailboxes, classrooms, and the School's guidance office. In addition, the Church, with support of the School's administration, has placed a "Prayer Requests" box in the faculty lounge.

- 16. Through the Fellowship's front group, Pastor Pfaff and the Church also hold weekly lunches at the School. The students refer to this event as "Jesus Pizza." This meeting is promoted to the School's students and staff through the presence of a large sign in the hallway that reads "God loves you and has a plan for your life. Jeremiah 29:11." (Exhibit 7). This sign is displayed outside the classroom hosting the event—a room known to Florence students as "the Jesus Room." During these "Jesus Pizza" sessions, which are led by Pastor Pfaff, he preaches to and prays with Florence students. (Exhibit 8).
- 17. In cooperation with the School's administration, Pastor Pfaff and the Church also distribute to students bibles and placards promoting the Church. Allegedly a "scholarship night" for seniors, this bible distribution event is primarily a vehicle for the Church to leverage state sponsorship to further its sectarian agenda. During the annual event, Pastor Pfaff presents personalized bibles to senior Fellowship members, along with a placard quoting scripture, and bearing the Church's logo. (Exhibit 9). Principal Schipper and Vice-Principal John Ward also participate, and are present on stage with Pastor Pfaff as

- he gives the bibles to students. (Exhibit 10). The event is held in the School's auditorium, and the District's official emblem is displayed next to the Pastor. (Exhibit 11).
- 18. The most recent "scholarship night" was held on May 15, 2014. That same day, with the support of the School's administration, Pastor Pfaff and the Church offered *five* different Christian events at the School, beginning at 7:20 in the morning and continuing late into the evening. These included: i) prayer around the flagpole; ii) lunch with prayer; iii) an all-school assembly led by the evangelical Christian Todd Becker Foundation; iv) a Christian rock concert also led by the Todd Becker Foundation; and v) the distribution of bibles to seniors. The Canyon City Daily Record reported:

"Wednesday is a big day at the Florence High School, which starts with senior prayer around the flagpole at 7:20 a.m. Fellowship of Christian Huskies and lunch, water and prayer will be offered at 10:55 a.m.

Then the Todd Becker Foundation and rock Group 'Chye' in concert will be presented at 12:45 p.m. in the gymnasium.

Todd Becker Foundation is a Faith Based Group...'Chye' has been all over the nation and several schools in Colorado talking about choices, responsibility, accountability and yes, *God has the answer to your life...* at 7p.m.

A free concert will be presented by 'Chye' in the gymnasium and a more spirit led and filled presentation by Todd. <u>Many, many students and adults have found</u> <u>Jesus during this presentation...</u>

Cowboy Church at Crossroads invites all churches in the area to support and attend this free concert. '*It's about bringing kids to Jesus and praying with them*,' said Pastor Randy Pfaff in an e-mail. 'All of us should be about that.'

On the same day, Cowboy Church at Crossroads will present 16 college scholarships and 16 leather bound engraved Bibles to students."

(Exhibit 12) (emphasis added).

19. As advertised, the Todd Becker Foundation ("the Foundation") offered two different presentations to the School's students on May 15, 2014. The first was an all-school

assembly that was "based off the scripture of Matthew 7:13." The assembly was introduced by Principal Schipper and scripture was presented to staff and students on a large projection screen reading, "...the gateway to life is small...but only a few ever choose this way. Matthew 7:13." (Exhibit 13). During the Foundation's presentations, students dropped onto their knees and prayed in front of the assembly. (Exhibit 14). Afterwards, students met one-on-one with members of the Foundation who shared "with them the Gospel of Jesus Christ and [pointed] them to the hope of a new beginning found in Christ." During these individual meetings, students were then "introduced to a local individual, pastor, or youth leader."

20. The Foundation's second presentation on that day was a Christian rock concert in the School's gymnasium. During that event, audience members were proselytized to with no fewer than ten different passages from scripture, all of which were presented on a large projection screen. (Exhibit 15). Pastor Pfaff stated, "God's Holy Spirit was so evident as HE filled the gym...Hundreds of students and complete silence as God worked...incredible...Perfect"

MR. BASEVITZ'S EMPLOYMENT AT FLORENCE HIGH

21. All of these activities were unknown to Mr. Basevitz in the summer of 2014 when he discovered that the District was looking to fill a vacancy at Florence High School. When he contacted the District about working for them, he was told that if he took a vacant special education position (his secondary accreditation), he would have a chance to become a history teacher (his primary accreditation) in the near future, once one of the School's current history teachers retired. It was based on this assurance, that in the summer of 2014, Mr. Basevitz moved to Florence, Colorado to work for the District.

- 22. Shortly after Mr. Basevitz began working at the School, he observed School staff using the public address system to promote a prayer ceremony led by Pastor Pfaff. According to repeated announcements over the P.A., the ceremony was to take place on September 24, 2014, the day on which Rosh Hashanah—the Jewish new year—begins. Flyers promoting the service were also distributed to staff and students. They read, "God loves you and so do we," and listed the sole contact person as Pastor Pfaff, who represented himself as an "approved RE-2 school district volunteer." (Exhibit 3).
- 23. On September 24, 2014, Mr. Basevitz arrived at the School and discovered Pastor Pfaff leading a massive prayer ceremony. (Exhibit 6). The ceremony was participated in by no fewer than six staff members, including Principal Schipper. Also participating in the Church's service were several members of the community who were otherwise unaffiliated with the School. The service was so large that the entire front entrance of the School was blocked, preventing anyone from entering or exiting the front of the School without interrupting the Church's prayer service. *Id.* Afterwards, students who did not attend were questioned by other students about their absence. Mr. Basevitz complained to Principal Schipper that this sectarian service was illegal, but no action was taken in response.
- 24. Only twelve days later, on October 6 and October 7, 2014, Mr. Basevitz volunteered to serve as a faculty chaperone for an overnight retreat of the ACE Club, which presents itself as a Florence High School student service group. However, after being bussed with the students to the retreat location, Mr. Basevitz discovered that the school faculty had arranged for it to be held at "Horn Creek Ministries," an organization that is focused on "Christ centered hope and renewal," and has as its "Vision: to cultivate generations

- committed to Christ. (Deut. 6:4-7)." (Exhibit 16). During the retreat, Horn Creek Ministry staff led Christian prayer before each meal.
- 25. Reflecting the highly sectarian atmosphere that the Church's presence in the School created, sometime in October 2014, a student yelled at Mr. Basevitz "You're such a Jew!"
- 26. The following month, Pastor Pfaff and the Church began circulating a flyer at the School promoting a "Christmas Prayer Around the Pole," that was to occur on December 17, the first full day of Hanukkah. The flyer included a nativity scene and listed Pastor Pfaff, Principal Schipper, and one other teacher as contact persons. No students were listed. (Exhibit 5).
- 27. Mr. Basevitz arrived at the School on the first full day of Hanukkah, and as with the day Rosh Hashanah began, discovered Pastor Pfaff again leading a massive evangelical Christian prayer ceremony. As with the previous ceremony, the event was participated in by School staff, including Principal Schipper, who joined hands with students and bowed their heads as Pastor Pfaff lead the service. Once again, the gathering was so large that no entry or exit from the front of the School was possible without interrupting the Church's service.
- 28. On December 18, 2014, Mr. Basevitz met with Principal Schipper and District Superintendent Vendetti to formally complain about the Church's ubiquitous presence at Florence High School. In response to his complaints, Mr. Basevitz—the School's only Jewish employee—was told that when the Church was holding prayer ceremonies, he could enter and exit the School using the side entrances.

- 29. On January 5, 2015, Superintendent Vendetti sent an email to staff addressing Mr.

 Basevitz's complaints. In it she stated that, "First and foremost, the school board, the

 high school principals and I support the Fellowship of Christian Huskies...we understand
 the right of our community members, parents, and students to pray at the flagpole...The
 district welcomes volunteers and has not restricted access to any of our schools from any
 community member" (emphasis added).
- 30. In an apparent attempt to ostracize him, Defendants informed staff and students of Mr. Basevitz's complaint and his Jewish heritage. On January 9, 2015, he overheard a student saying, "we can't do Jesus Pizza because Mr. B. is Jewish." Shortly thereafter, Pastor Pfaff posted on the Fellowship of Christian Huskies Facebook page, "The enemy always fights the hardest when he knows God has something great in store." (Exhibit 17).
- 31. On January 13, 2015, a fellow teacher approached Mr. Basevitz and commented about how unconscionable it was that a staff member had objected to Pastor Pfaff and the Church's regular presence at the school.
- 32. On January 20, 2015, only 33 days after his formal complaint against Pastor Pfaff and the Church, Principal Schipper met with Mr. Basevitz and informed him that he was being transferred to Penrose Elementary School. In violation of Article 9 of the collective bargaining agreement, the District failed to provide Mr. Basevitz, who had no previous elementary school experience, a written reason for its decision. That same day, Superintendent Vendetti sent Mr. Basevitz a letter stating that no action would be taken against Principal Schipper or Pastor Pfaff in response to his complaint.

33. On January 31, 2015, Pastor Pfaff wrote on the Fellowship's Facebook page, "I pray that God will...keep the doors of our local high school open to myself and others...and allow God's light to shine through us...amen and amen."

<u>CAUSE OF ACTION:</u> 42 U.S.C. § 1983

- 34. 42 USC § 1983 prohibits Defendants from depriving Plaintiff of any "rights, privileges and immunities secured by the Constitution and laws" of the United States.
- 35. The Establishment Clause of the First Amendment to the United States Constitution provides that a state "shall make no law respecting an establishment of religion." The First Amendment is made applicable to local public schools through the Fourteenth Amendment to the United States Constitution.
- 36. The Defendants' actions demonstrate not only the Defendants' endorsement of religious beliefs over non-religious, but the endorsement of Christianity over other faiths and other religious beliefs.
- 37. The Defendants' actions are designed to, and have the effect of showing favoritism toward religion, and in particular Christianity, in violation of the Establishment Clause of the First and Fourteenth Amendments to the United States Constitution.
- 38. The Defendants' actions foster excessive government entanglement with religion.
- 39. The Defendants, acting individually and/ or in concert with one another, have repeatedly endorsed, authorized and/or acquiesced in the delivery of religious actions in violation of the Establishment Clause and the Fourteenth Amendment to the United States Constitution.

40. As a result of Defendants' actions, Plaintiff has suffered personal and unwelcome contact with government-sponsored religious symbols.

REQUEST FOR RELIEF

- 41. Plaintiff Robert Basevitz respectfully requests that judgment be entered in his favor against the Defendants, awarding the following:
 - a. Declaring as unconstitutional the Defendants' actions, which promote, endorse and establish religious activities, and prayer at Florence High School, and include:
 i) sponsoring Christian prayer; ii) sponsoring and housing the Cowboy Church at Crossroads; iii) distributing bibles to students; iv) proselyting to and presenting scripture to students and staff; v) hosting school events at Christian locations; and vi) hosting evangelical Christian groups;
 - b. Enjoining the Defendants and their successors, employees, and agents, from permitting, authorizing, encouraging, and acquiescing in the delivering of: i) sponsoring Christian prayer; ii) sponsoring and housing the Cowboy Church at Crossroads; iii) distributing bibles to students; iv) proselyting to and presenting scripture to students and staff; v) hosting school events at Christian locations; and vi) hosting evangelical Christian groups;
 - c. Awarding compensatory or nominal damages in favor of the Plaintiff;
 - d. Awarding Plaintiff his attorneys fees in the case pursuant to 42 U.S.C. § 1988;
 - e. Awarding Plaintiff litigation related costs;
 - f. Awarding any other relief as this Court deems just and proper.

Respectfully submitted this 24th day of April, 2015.

s/ Paul Maxon

Paul Maxon (Atty. Reg. # 37251) The Law Office of Paul Maxon, P.C. 4450 Arapahoe Avenue, Boulder, CO 80303 Telephone: (303) 473-9999

Fax: (303) 415-2500

E-mail: paulmaxon@maxonlaw.com

Attorney for Plaintiff Robert Basevitz





COMMUNITY, HOME, LOCAL NEWS

LETTER TO THE EDITOR BY: RANDY PFAFF

FEBRUARY 2, 2015 DAVID LEAVE A COMMENT

I am writing with regards to a student club at Florence High School we call, Fellowship of Christian Huskies. It was founded in November of 2011 and the adult sponsor/leader/volunteer has been myself. In 2013 Principal Brian Principal Schipper accepted the position of RE-2 School District Employee Sponsor of the Club along with Director of School Counseling Sandra Nelson Miller and Teachers Tom Torres, Cheri Johnson, Jeremy Rivera and Daniel Coppa. In the fall of 2014 after suggestions from the school district Fremont County Residents John and Harriet Stevenson volunteered to take the weekly lunch responsibility over. Fremont County Resident Sandy Thomas volunteered to take the daily flagpole responsibility over. We have numerous student leaders and now have 10 students that have accepted this responsibility. Although activities are student led, we do need adult supervision present as all school clubs have.

We have prayed around the flagpole every morning school has been in session for more than 3 years with students, teachers and citizens of the community. We have prayer, pizza, candy and bible study at lunch every Wednesday in a history room and have fed more than 10,000 students during the past 3 years. We have distributed bibles, study aids, devotionals and have taken students to movies, concerts and numerous other outside activities. Everything we do is strictly volunteer and no one is ever forced or coerced into participating in any activity. Also, 99% of all we do is completely free to the students.

You must be wondering how all of this is financed? The Cowboy Church at Crossroads believe in the youth of our community and made the decision to make the Fellowship of Christian Huskies club their mission work. We support it 100% by donations tithes and offerings to our church. We also offer scholarships to graduating seniors. We believe in our country and promote morals, ethics, values and good choices to our students.

At this time our club and myself are being met with some resistance and singled out by a small minority because of our daily presence, our religious affiliation and consistent activities. I need your assistance at this time in writing letters of support for Fellowship of Christian Huskies and for myself in staying as

one of the adult volunteer leaders and sponsors.

Please include in the letter your support, your name and address and if you presently have a student or have ever had a student at Florence High School.

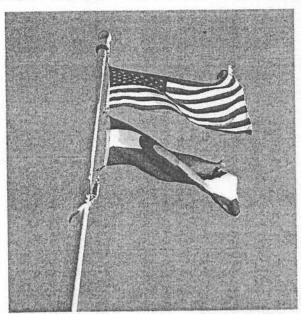
Please Address your letters to asap ,,,

Principal Brian Schipper. 2006 Highway 67. Florence, Colorado 81226 or Superintendent Rhonda Vendetti . 403 West 5th Street . Florence, Colorado 81226

Thanks for your time, consideration and support ... A Happy and Blessed New Year to you and your families Randy Pfaff – pastor . The Cowboy Church at Crossroads 8 Oak Creek Drive Florence . Florence, Colorado 81226 cell – 303-548-1082 . home – 719-784-9126

"See You At The Pole" National Day of Prayer * Wednesday *

September 24, 2014@7:20am Florence High School Meet us at the Flagpole



Fellowship of Christian Huskies is on Facebook more info . Approved re-2 school district volunteer randy pfaff . rpfaff@bresnan.net h - 719-784-9126 . c - 303-548-1082 God loves you and so do we









Fellowship of Christian Huskies

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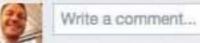
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Join Us! <u>Christmas Prayer</u> <u>around the Pole</u>

Where: Florence High School

When: Wednesday December 17, 2014@7:20am

Meet around the flagpole

Come as you are and Always, All are Welcome !!!



Sponsored by Fellowship of Christian Huskies We're on Facebook!

more info . principal brian schipper . 719-784-2752

. sandy thomas . 719-429-0611

. randy pfaff . rpfaff@bresnan.net . c-303-548-1082



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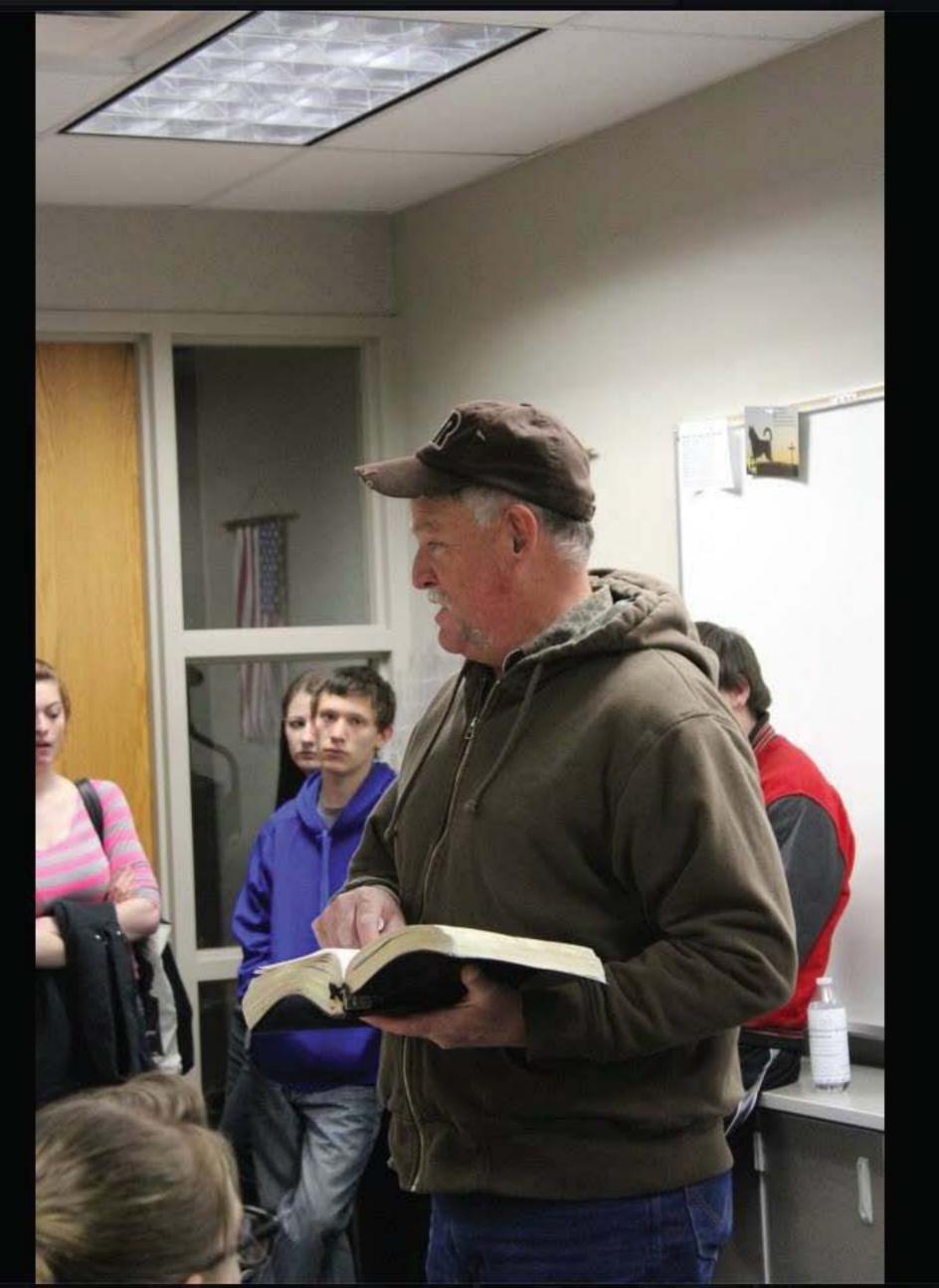
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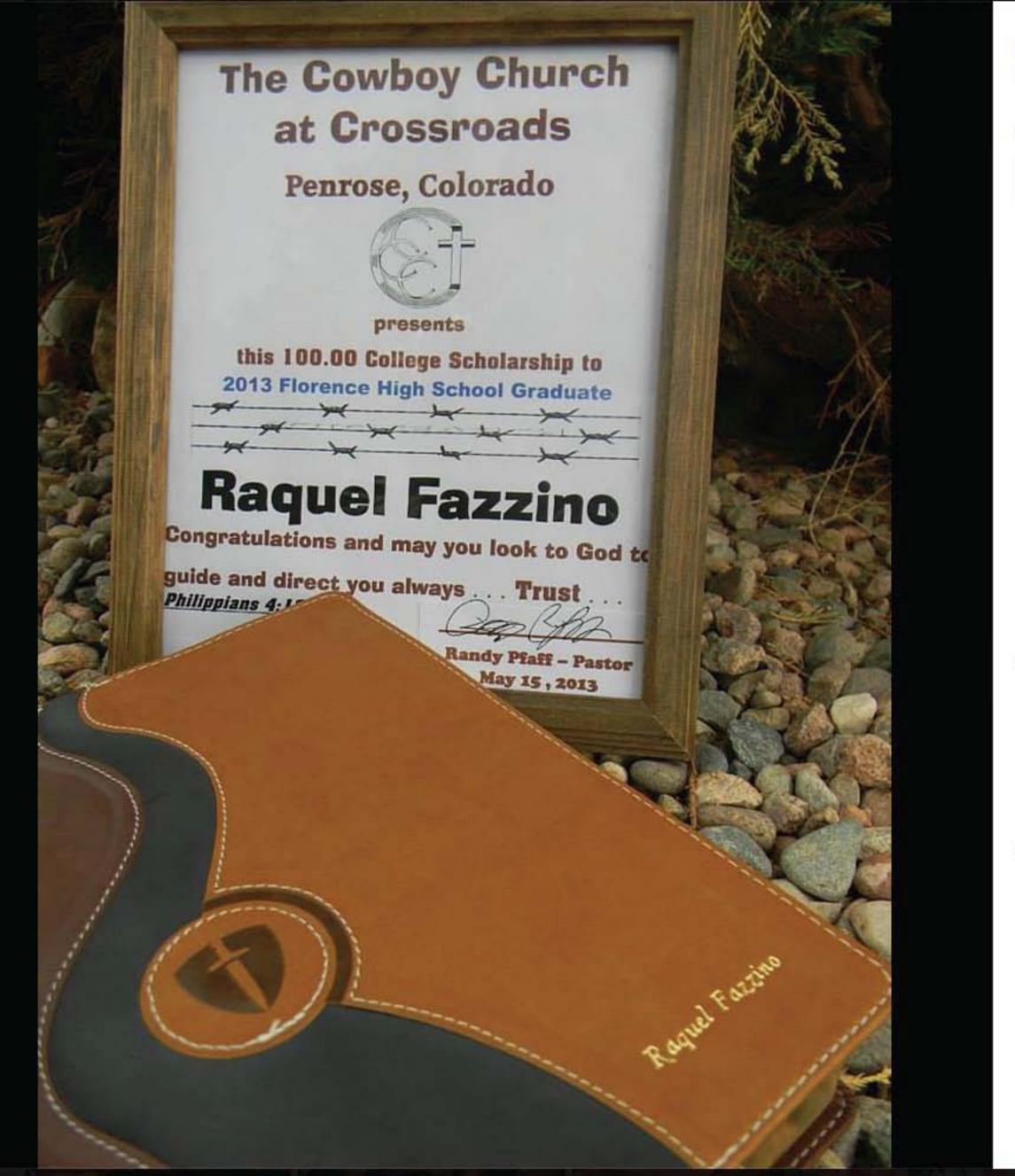
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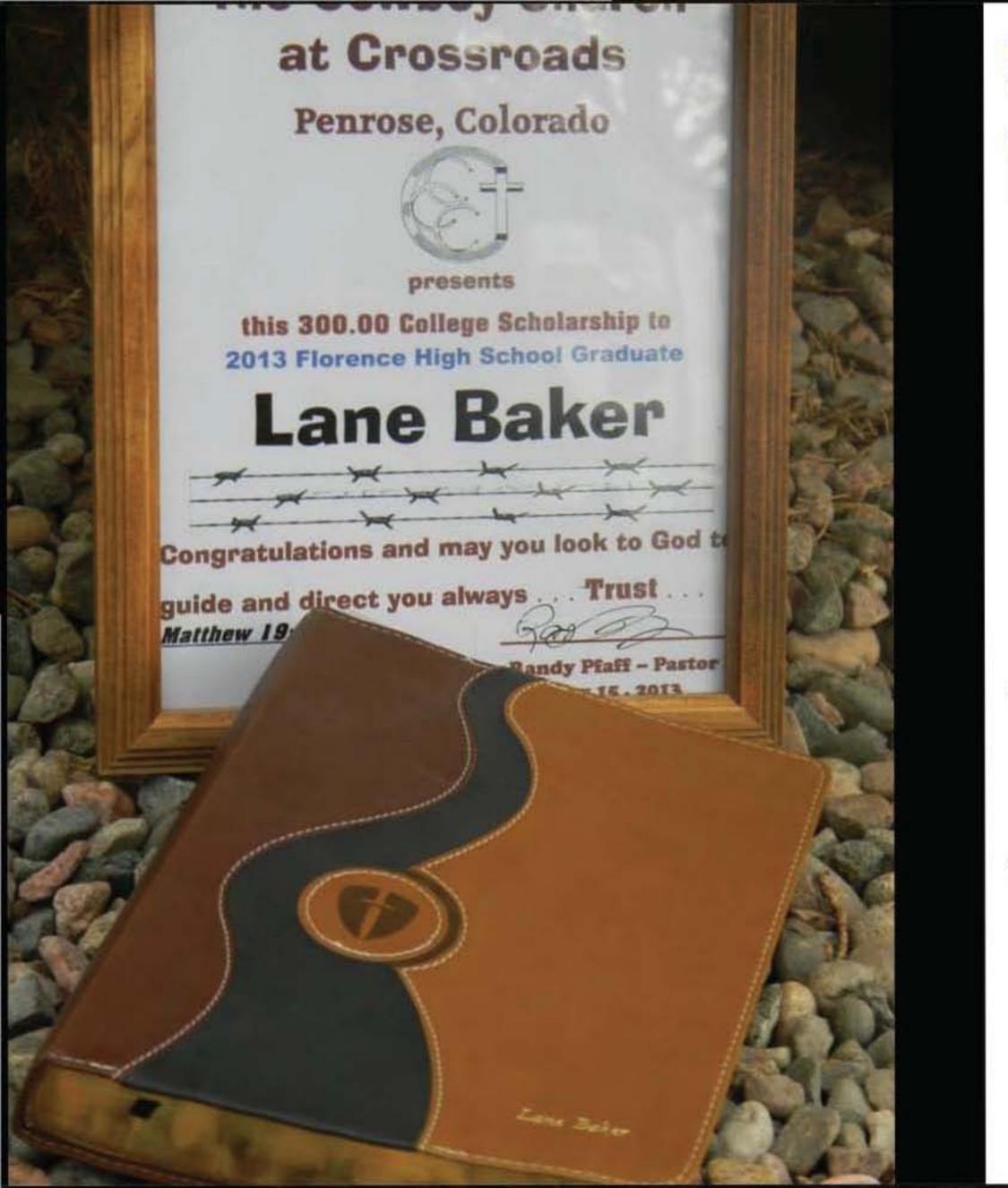
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Fellowship of Christian Huskies's Photos in College Scholarships and Bibles . . .

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See 'Chye' in concert Wednesday

Wednesday is a big day at the Florence High School, which starts with senior prayer around the flagpole at 7:20 a.m. Fellowship of Christian Huskies and lunch, water and prayer will be offered at 10:55 a.m.

Then the Todd Becker Foundation and rock group "Chye" in concert will be presented at 12:45 p.m. in the gymnasium.

Todd Becker Foundation is a Faith Based Group from Kearney, Neb., where Todd was killed in high school in an alcohol related death. His brother Keith and a rock group "Chye" has been all over the nation and several schools in Colorado talking about choices, responsibility, accountability and yes, God has the answer to your life ... at 7 p.m.

A free concert will be presented by "Chye" in the gymnasium and a more spirit led and filled presentation by Todd. Many many students and adults have found Jesus during this presentation.

The Todd Becker Foundation hopes to be in Cañon City High School next fall with the same presentation.

Cowboy Church at Crossroads invites all churches in the area to support and attend this free concert.

"It's about bringing kids to Jesus and praying with them," said Pastor Randy Pfaff in an e-mail.
"All of us should be about that."

On the same day, Cowboy Church at Crossroads will present 16 college scholarships and 16 leather bound engraved Bibles to students

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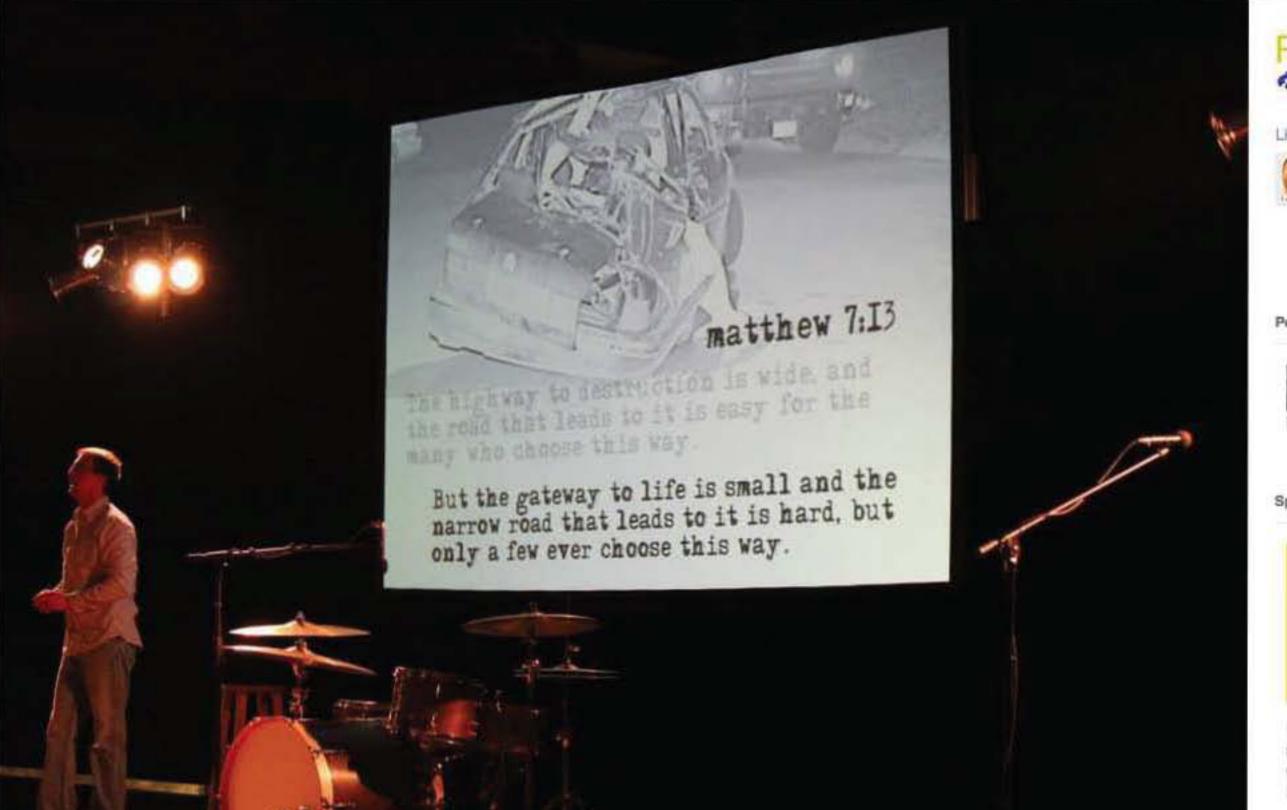
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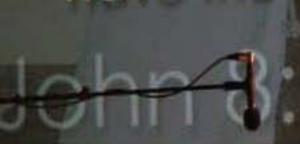
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"I am the light of the world.





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philippians 2:13 "For God is working in you, giving you the desire and the power



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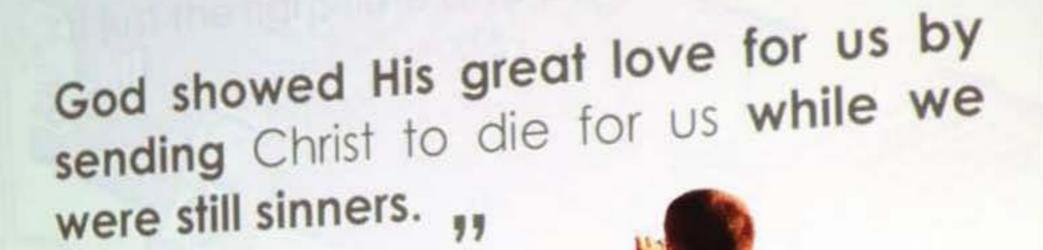
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Romans 5:8

WY.W.TODDBECKER.

God's loving heart speaking,

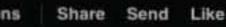
Do you think I like to see wicked people die?

Of course not! I only want them to turn

from their wicked ways and live!

ezekiel 18:23







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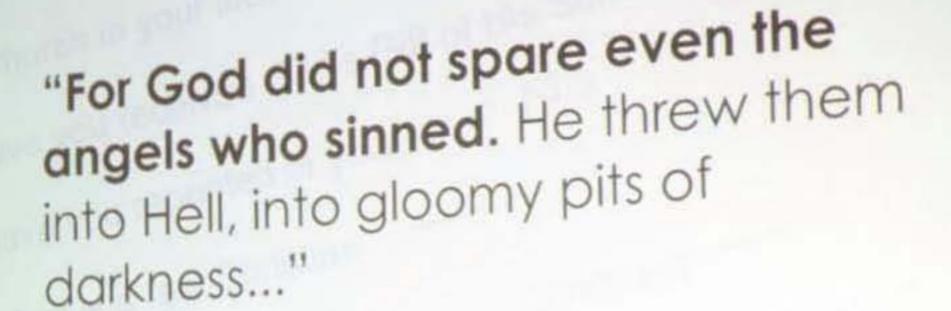
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2 Peter 2:4

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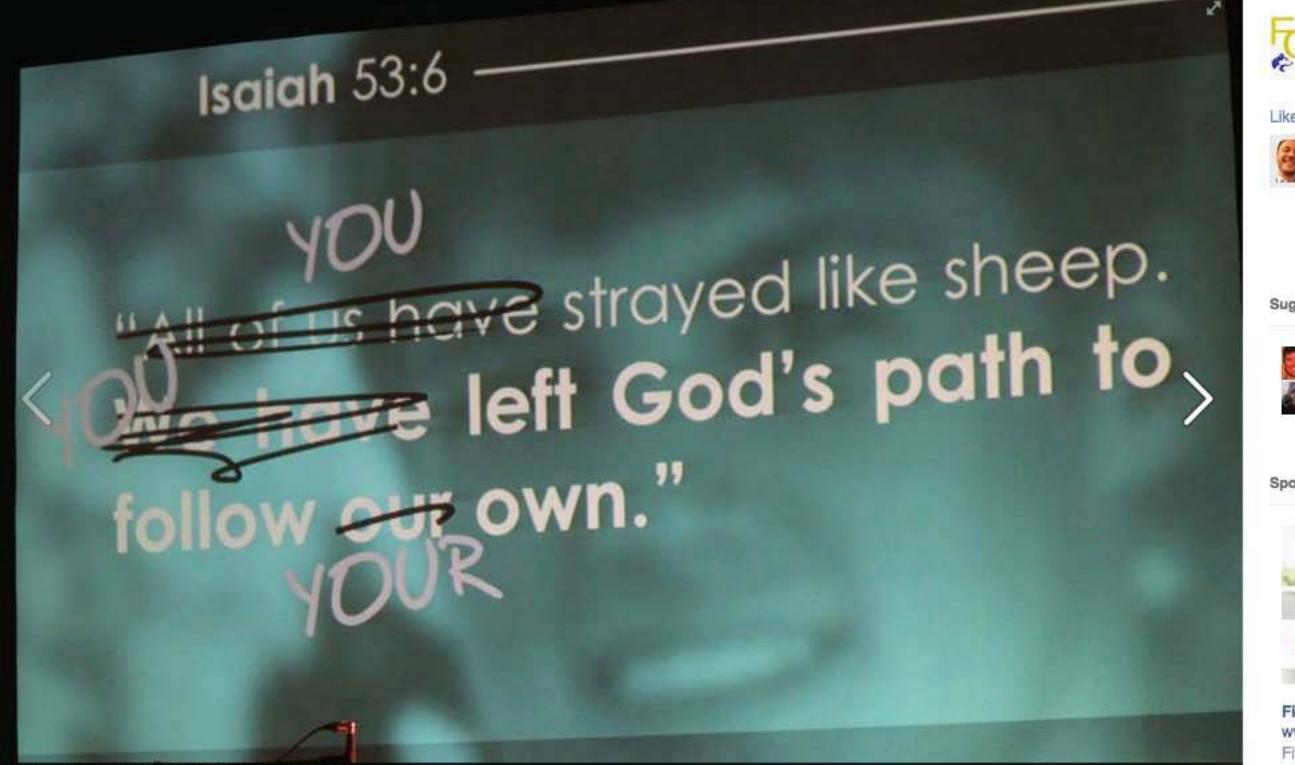
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Mission & Vision

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Mission

Horn Creek provides Christ-centered hope and renewal by creating an environment for life change through community, teaching, discipleship and encouragement. (Acts 2: 42-47; Hebrews 13)

Vision

To cultivate generations committed to Christ (Deut. 6:4-7)

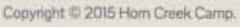
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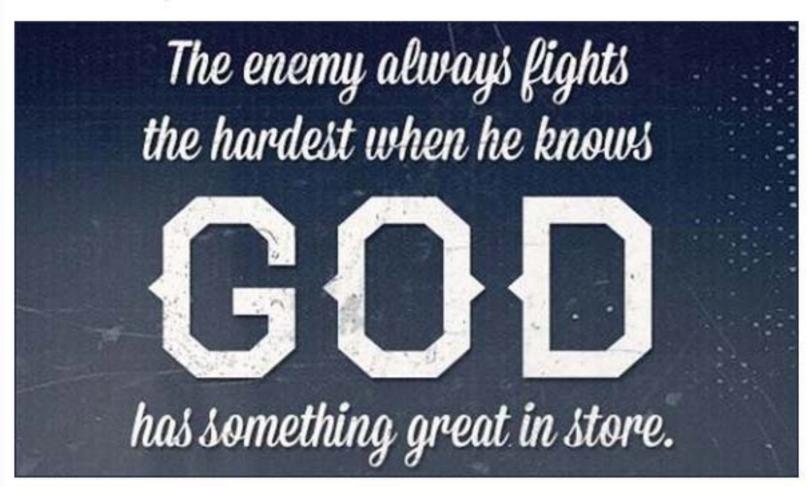




Fellowship of Christian Huskies shared Actors, Models

& Talent for Christ - AMTC's photo.

February 10 · @



Actors, Models & Talent for Christ - AMTC

Have you ever experienced hardship before victory? We'd love to hear your story! Let God #SHINE.