

Life: Faith and Religion

Legal tug of war over \$6 million Christian summer camp pits Bryan College against nonprofit group

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Staff photo by Wyatt Massey / John Ballinger, president of the National Association for Christian Athletes, sits outside a building at the Fort Bluff Camp in Dayton, Tenn., on July 21, 2021.

Editor's Note: For this story, the Times Free Press reviewed more than 600 pages of court records, transcripts and other documents. The Times Free Press successfully appealed to have some of the thousands of pages of court records under seal made public. The president of the nonprofit group agreed to multiple interviews. Bryan College, acting through Derryberry Public Relations, declined requests for an interview and responded to questions in writing.

The electric golf carts weave among children and chaperones who speckle the mountain's web of gravel roads. A preteen boy with a wide smile sports a baggy white T-shirt and a jester's hat. A girl seated in a wheelchair gazes up at the canopy of leaves. Children line up for the water slide, an oasis on an otherwise steamy late July afternoon.

The summer camp scene played out just beyond the glass and blinds of John Ballinger's office. The business analyst, a self-described "lightning rod," sits at the office's wooden table, a laminated survey map of the 72-acre Fort Bluff Camp in front of him as he recalls just how he got to this position.

"I've done over a thousand risk assessments. This was the most wrong thing I've ever come across in my life," Ballinger said. "In all my business practices, I've never seen anything this bad. I had to fight because not only did I have the wherewithal to be able to do it, the skill set to be able to do it, it was a passion of mine to see wrong right."

Ballinger's findings in early 2018 provoked an ongoing legal battle in Dayton, Tennessee. He's the president of a sports-based ministry, the National Association of Christian Athletes, which is pitted against the evangelical liberal arts school Bryan College.

The case alleges the college engaged in self-dealing by obtaining ownership of the camp — worth millions of dollars — during a time of turmoil at the college, at the expense of the nonprofit group.

"It was home cooking," Ballinger said.

NACA wants the camp back so the organization can continue its ministry on its own terms, supporting young Christians and guiding those seeking religious understanding. With their assets controlled by the college, the ministry is on shaky ground trying to plan retreats and opportunities for young people without much ability to control its future or know whether the camp will even be operating, Ballinger said.

Bryan College denies any wrongdoing, pointing to success in local court challenges, and blames the ministry for retaliating against the very institution that saved it in a time of need.

The case has made the Rhea County Courthouse home to thousands of documents, most of which are court-ordered to be sealed from the public. A judge in Rhea County's Circuit Court described it as the most "document-intense case" the courthouse has seen.

People in the area struggle not to compare the proceedings to another case at the same courthouse, the Scopes Monkey Trial — especially given the college takes its name from the famed lawyer who argued against teaching evolution, William Jennings Bryan.

Bryan College executives declined to be interviewed for this story, responding to questions from the Times Free Press in writing.

"NACA's real problem is with NACA, blaming itself for making hard decisions to solve problems that it created in the first place, then moaning about the results," the college said in its statement. "If companies could break contracts made by previous decision-makers facing dire straits and do so without penalty, contracts wouldn't mean much."

Frustrated by local rulings and the inability to present certain evidence, the National Association of Christian Athletes has appealed its case to the Eastern Division of the Tennessee Court of Appeals.

"Bryan College is seeking to destroy NACA's ministry and to prevent NACA from continuing to utilize the Fort Bluff Camp as a means of promoting its stated purposes, including promoting Christianity and

relationships with Jesus Christ," NACA wrote in one of its court filings.



Photo contributed by the National Association of Christian Athletes / Children take part in programs at the Fort Bluff Camp near Dayton, Tenn., during the summer of 2021.

MARTIAL ARTS START

In 1969, a Baptist preacher and **second-degree black belt** named Michael Crain incorporated the nonprofit Judo and Karate for Christ in Delaware.

Crain operated karate camps at various churches and founded Fort Bluff Camp in 1974, **according to Rhea County Herald-News**. The nonprofit organization changed its name to the National Association of Christian Athletes in 1984.

In 2008, Crain was accused of sexually assaulting an 8-year-old girl. In 2009, Crain was accused of sexually assaulting two female employees of the camp, one of whom was a 14-year-old girl, according to the Herald-News. Crain was found guilty and sentenced to 90 days in jail and 18 months probation.

According to court documents, NACA moved to end all ties with Crain and his wife Naomi but disagreement broke out among the NACA board about a severance package.

The association alleges that Naomi Crain met in December 2009 with Stephen Livesay, then president of Bryan College, and Glenn Stophel, a founding partner of the law firm Chambliss Bahner & Stophel and a Bryan College trustee at the time.

According to court documents, an agreement was made for the college to control the nonprofit — which NACA's own court filings say was already facing financial uncertainty from the litigation involving Crain — before committing to a new severance package for the Crains, created at the meeting.

With the help of Stophel, the NACA board agreed to what was referred to in emails and court records as the "golden parachute" plan, which, according to legal filings, would provide the Crains with more than \$1 million. Several NACA board members resigned over the compensation package, according to court records.

During a December 2009 board meeting, NACA's entire executive committee agreed to resign and allow Livesay to select nine of the 15 people who would sit on the board. According to board minutes that summarized the meeting and were obtained by the Times Free Press, Stophel told NACA the new board would "need to have substantial representation of persons nominated by Bryan College in order to have access to various personnel resources at the college who could assist NACA."

Livesay was then elected chairman of NACA. The minutes state that NACA thought Bryan College "would be a good fit culturally, theologically and geographically to carry out the purposes of NACA."

In a Dec. 21, 2009, email obtained by the Times Free Press, Livesay told board members of Bryan College, "the two organizations remain distinct and separate — each with its own function. We do not assume any assets or liabilities with this arrangement."

THE "CONTRIBUTION"

While Bryan College took control of the nonprofit group's leadership at a time of crisis in the late 2000s, the college faced its own set of controversies between 2012 and 2015 as Livesay faced challenges with low student enrollment and cutting staff positions and scholarships.

In February 2014, Livesay led a change in Bryan College's statement of faith to **rule out the possibility that humans evolved from other forms of life**. While many faculty may have agreed theologically, the move was **criticized as secretive and lacking public input**. School faculty then voted 30-2 on a vote of no confidence in Livesay's leadership, alleging "poor financial management" and an "authoritarian leadership style," according to minutes from the meeting.

In May 2014, Bryan College **cut 20 staff positions**. Two months later, four members of the college's board of trustees **resigned over Livesay's leadership**.

In October 2015, school faculty again raised concerns about Livesay's leadership after the school **implemented a seven-step approval policy for a faculty meeting to be allowed.**

Meanwhile, NACA's financial position suffered. Tax records show the organization's expenses doubled between 2015 and 2016. NACA ended 2016 with a net loss of more than \$1.6 million.

According to court filings from NACA, conversations began with an outside Christian ministry to oversee operations at the camp and assume NACA's debt. According to notes from that meeting, referenced in NACA's court filings, Livesay created a plan in which the college would be paid \$1.5 million for moving NACA's assets to the third party.

The deal never happened, and in 2016, the Bryan College board accepted the "contribution" of the Fort Bluff Camp to Bryan College.

In June 2016, five of NACA's seven board members voted to transfer the land and most buildings to Bryan College. The camp was valued at around \$6 million after subtracting debt obligations, but the property was transferred to Bryan College for \$1 on June 30, 2016, according to a property record in Rhea County.

Bryan College would then lease the property back to NACA to continue operations.

"We anticipate a long and healthy relationship with NACA that continues to make a difference in today's world through sharing the good news of Jesus Christ," Livesay **told the Rhea County Herald-News in an article announcing the transfer.**

Dave Sekura, executive director of Fort Bluff Camp then and now, praised the partnership at the time, saying the two organizations would "help each other reach mission objectives."

In June 2016, after the NACA board agreed to the land transfer, Livesay said he could no longer serve on NACA's board because of a conflict of interest, according to meeting notes. In January 2017, Livesay stepped down from leading the board.

When asked why there was not a conflict of interest before or during the land transfer, Bryan College told the Times Free Press the school has "continued to consult and follow the advice of external legal advisers and independent financial auditors to guide its efforts.

"As long as Bryan College and NACA shared similar Christian mission-oriented visions and had no ongoing or long-term financial obligations to each other, no conflict of interest existed between the two organizations," the school said in a statement. "Once Bryan College assumed NACA's debt and NACA entered into a lease for the camp, the relationship changed. Once the parties became landlord and tenant Dr. Livesay decided to step down."

Stophel denied any wrongdoing with the makeup of the board, citing his more than 50 years of experience practicing law. Overlap among nonprofit or corporate boards is normal, he told the Times

Free Press, and said, "if there's full disclosure, there's nothing wrong with it."



Photo contributed by the National Association of Christian Athletes / Children take part in programs at the Fort Bluff Camp near Dayton, Tenn., during the summer of 2021.

THE NUCLEAR OPTION

Ballinger was familiar with Fort Bluff Camp after having a strong spiritual experience there while on a men's retreat in 2010. His eyes still tear up when he talks about it. He had retired from the Army, and while in the camp's dining hall, his pastor challenged him to go deeper, further committing himself to Christ.

He never thought he would return to the camp, he said, but leaders with the NACA board requested multiple times in late 2017 that he come and conduct a risk assessment of the organization.

He began gathering documents, conducting interviews, skimming emails and reading newspaper articles.

His experiences at the camp and seeing hundreds of kids come through the programs to have their own religious experiences motivated him to take a more active role in the dispute.

What he began to uncover disturbed him, he said. Why had the president of Bryan College been the chairman of NACA? Why did both organizations work with the same accounting firm? Why was there so much overlap between the two boards, Ballinger wondered.

The president of NACA in early 2018, Vance Berger, also worked in the finance department at Bryan College. Berger signed the deed transferring the property and signed a lease agreement in which NACA would pay Bryan College \$10,000 a month and pay all maintenance costs, utility bills, taxes and insurance on the property.

The board did not realize the consequences of the actions it had taken, Ballinger said. And by mid-2018, NACA's board had evolved to be almost entirely independent from Bryan College.

Ballinger and the attorneys for NACA argue the lease Berger signed was not the same lease that was agreed upon by the NACA board. An earlier version of the lease, obtained by the Times Free Press, would have charged NACA \$1 a year and after one year up to \$120,000 a year only when Bryan College did not have a positive balance of at least \$120,000 in net assets. According to that version of the lease, NACA would be responsible for making up the difference of any budget shortfall up to \$120,000.

In a June 24, 2016, email from Livesay to the NACA board, obtained by the Times Free Press, the college president wrote, "There will be no rent if Bryan College ends the year in the black (by any amount) and should there be a year when that does not happen, NACA's rent is only the amount of the deficit (because of depreciation) up to a maximum of \$120K. Any approved capital improvement at NACA will be an offset for that depreciation rent."

NACA's court filings argued the agreement amounted to self-dealing and should not have been allowed to take place given that four of the five people who voted for the transfer were either Bryan College trustees or were employed by the college, which stood to financially gain from the transaction, and the person who signed the lease on behalf of NACA was a Bryan College employee subservient to Livesay.

In its statement to the Times Free Press, Bryan College said NACA's argument about the changing lease has been rejected in court.

"Bryan College showed that at least five of NACA's board members were provided a copy of the lease before either party signed it, and none of them objected to its terms," the college said.

The college did not respond to a question from the Times Free Press about which five board members were briefed on the lease, which two were not and why. The college did not respond to a question from the Times Free Press about whether the lease presented to the NACA board was the same signed by Berger weeks later.

Tax records show Bryan College finished 2016 with a net profit of nearly \$4.9 million. J. Wayne Cropp, a Bryan College trustee who **resigned in 2017 over Livesay's conduct as president**, stated in his resignation letter that, without the land transfer, Bryan College would have ended the year with a major budget deficit.

"Due to recent actions regarding Bryan College and the National Association of Christian Athletes I have come to conclude that I have not been effective, and cannot be effective in the future, in holding the leadership of Bryan College accountable to certain principles that I consider important for a not-for-profit institution and especially a Christian institution," Cropp wrote at the time.

In a June 2, 2016, email from Livesay to Cropp, obtained by the Times Free Press, Livesay wrote the college's budget deficit at the time was around \$1 million but, he wrote, "The gift from NACA will be in the \$2-3M net range and will more than offset the current deficit so that we will end the year in the black."

In its statement to the Times Free Press, Bryan College denied that the land transfer was made to stabilize the school's financial standing. The school said it took on nearly \$1 million in debt from NACA and that the organization's tax records are public.

"These reports reveal that Bryan College has been and remains in a strong financial position which is one of the key reasons why NACA sought to relinquish control of the ministry and land to the college," Bryan College said in its statement.

In court filings, NACA argues Bryan College raised Livesay's salary from \$225,000 to \$250,000 and provided him a \$15,000 bonus several months after the transfer. Bryan College, in its court filings, denies the raise or bonus was at all related to the land deal.

NACA also alleges in court filings that Bryan College misled the IRS about its financial dealings with NACA. In its original 990 tax form from the year the land transfer occurred, Bryan College declared it was not part of any transaction with another organization in which a current or former Bryan College officer, director, trustee or key employee served in a similar position at the other organization. Bryan College also told the IRS it did not receive more than \$25,000 in non-cash contributions that year.

In its original tax filings from 2016, obtained by the Times Free Press, Bryan College appears to have marked the land transfer as revenue from "federated campaigns" and not from a related organization or another form of contribution.

Ballinger highlighted these tax issues in a December 2018 letter to Bryan College detailing his concern with the land transfer.

In January 2019, Bryan College submitted an amended return to the IRS in which the school declared the \$6 million land transfer as a non-cash contribution. The amended return did not note NACA as a related organization at the time.

In its statement to the Times Free Press, Bryan College said it "fully complied with federal and state reporting requirements in tax documentation. Bryan College's 990[s] are publicly available."

When asked whether the 2019 amendment to the 990 was related to ownership of the Fort Bluff Camp, Bryan College said in a statement, "the documents speak for themselves."

Organizations in times of crisis often turn to the person bearing bad news to ask what they should do, Ballinger said.

He became president of the organization in 2018 and led attempts to meet with Bryan College to unwind what had been done. Those attempts were rebuffed. As he saw it, the school was not willing to come to the table, so more aggressive action needed to be taken.

"There's a belief in the world of insurance and law that if you are paying something, you agree to it," Ballinger said.

In May 2018, NACA stopped paying rent to the college. It also stopped paying the severance package for the Crains.

In a 13-page letter sent to Bryan College in December 2018 explaining the decision, Ballinger wrote the school should allow an independent third party to review the records of the two organizations. He described NACA as a "sister Christian organization" to Bryan College.

"Our request is two-fold: first, we request that Bryan College desist from its [threatened] legal actions against NACA; and, second, we respectfully ask that Bryan College return the Fort Bluff Camp property assets and liabilities to NACA," Ballinger wrote in December 2018.

In January 2019, Bryan College filed suit in Rhea County against NACA for \$90,000 in unpaid rent.





Staff photo by Wyatt Massey / The entrance to the Fort Bluff Camp in Dayton, Tenn., is pictured on July 21, 2021. The camp is owned by Bryan College after the property was transferred from the National Association of Christian Athletes to the school in 2016.

"NOTHING STICKS"

So far, NACA has found few victories in its legal battles to get the camp back.

In April 2019, Rhea County General Sessions Court Judge Shannon Garrison sided with Bryan College and **awarded the school the property and \$120,000 in unpaid rent**. NACA appealed the ruling to the circuit court.

NACA's lawyer argued the underlying transaction that created the lease agreement was fraudulent with clear conflicts of interest, so NACA should not be obligated to honor the lease. NACA argued the lease terms signed by its then-president, also an employee of Bryan College, were not the terms the ministry was presented when it agreed to it.

In its filings, NACA described the actions of Bryan College as "unfair, inadequate, oppressive and improper."

At the same time, NACA argued construction projects on the property should be credited to offset any rental payments, despite the signed lease that said such improvements would become assets of Bryan College.

The attorney for Bryan College, Anthony "Bud" Jackson of Chambliss, Bahner & Stophel, argued in court that NACA paid the rental amount on the lease for roughly two years before alleging anything was wrong. The majority of NACA's allegations against Bryan College were made after the one-year statute of limitations to bring such a case, Jackson said, and the ministry was trying everything it could to have a case.

"You can try to throw everything you want against the wall and see if something sticks, but nothing sticks," Jackson said, according to a hearing transcript.

Stophel, who previously served as legal counsel for Bryan, told the Times Free Press it was a "bad situation" for new leadership to try and undermine agreements made before they were in charge.

"For someone to come back and say you've done me wrong when you've got saved by them is a little far-fetched," Stophel said.

In an October 2020 hearing before the circuit court, NACA's attorney argued the case was "essentially life and death" for the ministry given the financial hardship it has taken on under the lease agreement and the legal fight. The ministry has more than 60 full- or part-time employees, three of whom live on the camp property, and nearly 8,500 children are scheduled to visit the camp in 2022, according to court records filed by NACA.

In response, Jackson told the judge NACA should have been saving money during its legal challenges.

"If it's truly life and death for NACA, it's NACA's own doing," Jackson said.

The judge dismissed NACA's counter-complaint because the one-year statute of limitations had passed and said NACA needed to sue its own board members, not Bryan College, for whatever misconduct was alleged.

In May, the judge sided with Bryan College for the property and \$370,000 in unpaid rent. The judge said there was a valid lease agreement between the two parties and NACA was obligated to pay back rent, and Bryan College was to be given possession of the property in 60 days.

Ballinger told the Times Free Press he felt his organization was not allowed to present important evidence or question key players in the transaction and lease agreement.

"The judge says he read everything. If you read that," Ballinger said, pausing several seconds before speaking again, "I don't know how you could read what I've read and seen what I've seen and be impartial and unbiased and not say something needs to be worked out, instead of you owe them, you pay them all the attorney's fees or get out of this place. It defies logic and reason."

Ballinger holds out hope for the appeal process to do what he believes is the right thing.

NACA appealed its case to the Eastern Division of the Tennessee Court of Appeals in July, arguing Bryan College withheld or delayed providing relevant information to earlier hearings and that the court did not consider all the relevant facts of the case.

Ballinger said he is upset with how much money is being spent on legal teams to fight something two Christian organizations should be able to work out. The two organizations could have a fruitful relationship, he said, even if that meant him stepping down once the camp is returned to NACA's possession.

"We could potentially work together and actually support one another with sports and tournaments and people that come here actually becoming college students at Bryan at some point or their kids being counselors here," Ballinger said. "I see so much opportunity for the two organizations to work together — being, what, 5 miles from each other — that's being wasted over all this."

Robin Derryberry, whose firm Derryberry Public Relations represents Bryan College, told the Times Free Press, "Each time this issue has been brought before a court, the court has sided with Bryan

College, without exception. We're looking forward to putting this issue to rest and moving forward with a new chapter for the property and for Bryan College."

The case is before the Tennessee Court of Appeals, though briefings have not yet been filed or a hearing scheduled.

Disclosure: Anthony "Bud" Jackson of Chambliss, Bahner & Stophel, PC, advises the Times Free Press on legal matters but was not involved in that capacity for this story.

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