

COURT RULES ON RELIGIOUS LIBERTY IN THE SCHOOLS

Every spring there are rulings from the bench that touch on serious matters of religious liberty. This past spring was no exception. Perhaps the most important decisions this time centered on issues affecting the rights of students. Most of the outcomes were encouraging.

In May, a federal appeals court ruled once again that public school students have the right to choose a fellow classmate to give a prayer at a high school graduation; the case involved Duval County in Florida. The ruling made it clear that school officials have no control over the selection of who is to speak or what the speaker says.

Last spring, the U.S. Supreme Court ruled that student-led prayers at public school football games in Santa Fe, Texas, were unconstitutional because they were officially sanctioned. But on May 24, 2001, the 11th Circuit U.S. Court of Appeals said the Florida and Texas cases were “fundamentally different.”

In the Texas case last year, the U.S. Supreme Court rejected student-led prayers before a public high school football game because it reflected the official policy of a school district. The policy not only allowed students to vote in favor of a prayer before the games, it provided measures to supervise the vote. The result of all this, the high court ruled, was to effectively put the school district on record as endorsing religion. The situation in the Florida case, however, was more of a straight free speech issue.

“It is well known,” we said in a news release, “that the same radical civil libertarian and separation of church and state extremists who maintain that it is constitutionally protected

speech to allow a student to use obscenities in a valedictorian address are the same ones howling for censorship whenever a prayer is cited in public.” These extremists, we commented, “want to deny students the right to invoke the name of God at a graduation ceremony but would defend to the hilt the right of students to curse God before the same crowd. That, they would say, is free speech.”

The issue of student-initiated prayers came up again in June. On June 18, the U.S. Supreme Court let stand an Alabama law allowing group prayers at football games and other school functions. Walter Weber, senior litigation counsel for the American Center for Law and Justice, was the attorney most responsible for the win.

“By not taking this case,” Weber said, “the Supreme Court has let stand an important federal precedent.” He explained that in this case, “the federal appeals court ruled that student-led and student-initiated prayer and other religious speech is still constitutionally protected in this country.” Weber, who also serves on the board of advisors of the Catholic League, dubbed the ruling “a critical victory for free speech and for religious liberty.”

Can religious groups meet after school hours in public schools? In a 6-3 ruling in *Good News Club v. Milford Central Schools*, the U.S. Supreme Court declared that it was discriminatory to ban a Christian club from meeting after school hours simply because the club was religious in nature. Writing for the majority, Justice Clarence Thomas argued that to deny the religious club the right to meet constituted “viewpoint discrimination” and therefore violated the First Amendment principle of free speech.

The Catholic League was delighted with this decision. The club, we hastened to say, is entirely voluntary. Indeed, those opposed to the club are free not to join. But they have no right to impose their secular agenda on students. “If students

can meet to discuss atheism,” we said to the media, “then surely they can meet to discuss Christianity.” We also mentioned that, “The losing side in this battle is made up of those who are driven more by an animus toward the public expression of religion than by any alleged fidelity to the Constitution.”

On the heels of the *Good News Club* case came another key ruling on an almost identical issue. On June 19, the U.S. Supreme Court ordered the 5th U.S. Circuit Court of Appeals to reconsider its ruling upholding a school board policy barring religious groups from holding services on school property after school hours. The case involved the Louisiana Christian Coalition’s quest to meet after school on school grounds.

The lone loss for religious liberty came when the high court said it would not accept a challenge to a lower court decision that said it was okay for a public school teacher to forbid a first grade student from reading a Bible story in class. Asked by his teacher to read his favorite story to the class, Zachary Hood from Medford, New Jersey, chose a story from *The Beginner’s Bible*. That was his mistake. The teacher abruptly censored little Zach’s speech and now he’s lost in the courts as well. Anyone want to bet the teacher is a flaming civil libertarian?

The Catholic League is not unaware that there are some religious zealots who would use the schools for their own sectarian purposes. But the greater danger these days comes not from religious militants but secular militants.