

IS A “BLACK MASS” FREE SPEECH?

[Bill Donohue](#)

On March 28, a Kansas-based group, the Satanic Grotto, is planning to hold a “Black Mass” on grounds surrounding the Kansas State Capitol in Topeka. The event was originally scheduled to be held at the Statehouse, but Kansas Governor Laura Kelly succeeded in getting it moved outdoors.

She insists that she has “a duty to protect protesters’ constitutional rights to freedom of speech and expression, regardless of how offensive or distasteful I might find the content to be.” Not so fast.

The Satanic Grotto has admitted that the purpose of the “Black Mass” is to engage in blasphemy targeted at Catholics. On Facebook, it says, “We will be performing rites to the Black Mass and indulging in sacrilegious blaspheme [*sic*]. God will fall and Kansas will be embraced by the black flame of Lucifer.”

While it is true that blasphemy is generally seen as protected speech under the First Amendment, in *Lynch v. Donnelly* (1984), Chief Justice Warren Burger explicitly said that the Constitution “affirmatively mandates accommodation, not merely tolerance, of all religions, and *forbids hostility to all* (my italics).”

Here’s where the “Black Mass” gets problematic.

Every Christmas season, the Catholic League receives a permit from the New York City Parks Department to display a nativity scene on public property. But not just any public property: we are allowed to do so because it is erected in Central Park. Central Park is considered a public forum, a place where

freedom of expression carries no appearance of government endorsement.

Importantly, we do not apply for a right to display our crèche near City Hall, because to do so might give a reasonable person the impression that it has the tacit endorsement of government. This is the way the First Amendment is interpreted today.

Ergo, for the government of Kansas to allow an event on the grounds of the statehouse—the express purpose of which is to insult Catholics—might give the impression that it is endorsing this sacrilege. It would therefore be party to the kind of “hostility” to religion that the Supreme Court said was unconstitutional.

The most practical way to handle this is to revoke the permit and allow the Satanic Grotto to reapply, choosing a public forum, not government property.

We are contacting the governor and all state lawmakers.

Contact the governor's chief of staff, Will Lawrence:
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