



Written by [Dave Bohon](#) on May 13, 2014

Mass. High Court Reaffirms “Under God” in Pledge of Allegiance

The Massachusetts Supreme Judicial Court ruled on May 9 that the phrase “under God” in the Pledge of Allegiance does not violate the non-religious beliefs and equal rights of atheists, affirming that students in schools across the state are free to recite the Pledge or refrain from doing so, based on their personal convictions.



The American Humanist Association filed a lawsuit in 2010 on behalf of an atheist couple with three children who were supposedly offended by the phrase, and who feared their children would be labeled unpatriotic because they refused to utter the words that have become associated with the Pledge since being added in 1954. In response to the challenge, a number of state parent groups, pro-family and Christian organizations, along with the Knights of Columbus stepped forward to defend the Pledge, joining with the Becket Fund for Religious Liberty, which argued the case before the state high court.

Writing for the majority, Chief Justice Roderick Ireland noted that reciting the Pledge of Allegiance is a voluntary observance, and if a student wishes he or she can refrain from reciting any or all of the Pledge, including the words “under God.”

“The daily recitation of the Pledge of Allegiance does not violate Article 1 of the Massachusetts Declaration of Rights,” the state constitutional provision that guarantees equal rights, wrote Ireland in the courts’ decision to reject the lawsuit. He noted that students “are free, for any reason or for no reason at all, to recite it in its entirety, not recite it at all, or recite or decline to recite any part of it they choose, without fear of punishment.”

Referring to the students who were the subject of the suit, Ireland wrote that there was no evidence “that the Doe children have ever been subjected to any type of punishment, bullying, or other mistreatment, criticism, condemnation, or ostracism as a result of not participating in the pledge or not reciting the words ‘under God.’”

While the ruling leaves “under God” in the Pledge for the foreseeable future, at least one Supreme Judicial Court justice left open the possibility of striking the phrase through a similar lawsuit down the road. “A reference to a supreme being, by its very nature, distinguishes between those who believe such a being exists and those whose beliefs are otherwise,” wrote Justice Barbara Lenk in her concurring



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opinion. She warned that if it is shown that “the distinction created by the pledge as currently written has engendered bullying or differential treatment, I would leave open the possibility that the equal rights amendment might provide a remedy.”

David Niose, an attorney for the American Humanist Association, expressed his displeasure with the court’s refusal to buckle to his group’s demands. “We are very disappointed by the court’s ruling,” Niose said in a statement released by the atheist club. “No child should go to public school every day, from kindergarten to grade 12, and be faced with an exercise that portrays his or her religious group as less patriotic.”

Niose claimed that the Pledge recitation amounts to a daily religious indoctrination inflicted on atheist children. “The flag-salute is how we define patriotism for children on a daily basis,” he said. “When we define patriotism with a religious truth claim — that the nation is in fact under a god — we define nonbelievers as less patriotic.”

By contrast, Eric Rassbach, deputy general counsel at the Becket Fund, applauded the court’s ruling, saying that the justices had affirmed “what should have been obvious” — that “‘God’ is not a dirty word. And it isn’t discriminatory either. The words ‘under God’ are a reminder to our children that government doesn’t give us our rights and it can’t take them away either. Preserving the Pledge protects the rights of every American.”

Supreme Knight Carl Anderson of the Knights of Columbus, the Catholic groups which joined with the Becket Fund in defense of the Pledge of Allegiance, recalled that at “at Gettysburg, President Lincoln reminded us that we were a ‘nation, under God.’ He followed in a distinguished tradition going back to the Declaration of Independence — a tradition that has been enshrined in the words of the Pledge of Allegiance, and that inspired that son of Massachusetts, President John F. Kennedy, when he said in his inaugural address: ‘our rights come not from the generosity of the state, but from the hand of God.’ We applaud the court’s decision on this foundational principle of our country.”

Rassbach noted that the latest ruling represents the Becket Fund’s fourth court victory in protecting “under God” from attack in Massachusetts. “For those who have been attacking the Pledge we would offer this,” advised Rassbach: “Our system protects their right to remain silent, but it doesn’t give them a right to silence others.”



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