



Written by [Dave Bohon](#) on September 15, 2011

Court Rules Against Classroom Banners Promoting America's Christian Heritage

The 9th Circuit Court of Appeals ruled September 13th that a California teacher's First Amendment guarantees were not violated when the principal at the school where he worked ordered him to remove classroom banners that connected America's heritage of freedom to faith in God. The decision overturned a lower court's ruling that the Poway Unified School District had violated the free speech rights of Bradley Johnson, a mathematics teacher in the district.



As reported by the [Los Angeles Times](#), Johnson "had displayed banners in his classrooms for two decades that he saw as celebrating the religious heritage of America, including 'In God We Trust,' 'God Bless America,' and 'God Shed His Grace on Thee.' "

But when Johnson transferred to a another school in the district in 2007, his new principal, Dawn Kastner, ordered him to remove the banners, some over seven feet wide, saying that their size made them "a promotion of a particular viewpoint," as Kastner was quoted in the court's 40-page opinion.

"Johnson, who sponsors the Christian club at the school, Westview High School in Rancho Penasquitos, said he thought he was being singled out because the phrases involved Christianity," reported the *Times*. "The banners came down, and Johnson filed a lawsuit."

Johnson argued that the banners "were no more an assertion of a religious point of view than the Tibetan prayer flags, Dalai Lama poster, and Malcolm X poster that other teachers had in their classrooms," according to the *Times*. Federal Judge Roger Benitez agreed, ruling that Poway school officials had violated his First Amendment guarantees, and ordering nine of them to pay the aggrieved teacher \$10 dollars each as a token settlement.

Johnson returned the banners to his room, but the school district appealed, with the 9th Circuit reversing Benitez's ruling and even ordering Johnson to pay the school district's legal expenses.

In his [opinion for the court](#), Judge Richard C. Tallman wrote that when Johnson goes to work as a teacher, "he speaks not as an individual, but as a public employee, and the school district is free to 'take legitimate and appropriate steps to ensure that its message is neither garbled nor distorted,' " citing an earlier federal court ruling.

Contrary to the lower court verdict, Tallman wrote that the Constitution "does not permit [Johnson] to speak as freely at work in his role as a teacher about his views on God, our Nation's history, or God's role in our Nation's history as he might on a sidewalk, in a park, at his dinner table, or in countless



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other locations.”

Predictably, the [ACLU](#) wormed its way onto the legal stage in the case, noting in an amicus brief that while “education is enhanced by an open exchange of ideas”— something Johnson assumed was his right to engage in — the school district nonetheless had the duty to “ensure that teachers do not engage in speech that endorses religion, because reasonable persons perceive that what teachers say — and post in their classrooms — is approved by the government.”

Somewhat ironically, the ACLU actually sided with Johnson in his contention that because the district had allowed classroom displays devoted to other religions — namely, a 40-foot string of Tibetan prayer flags in one teacher’s classroom — while prohibiting his own Judeo-Christian display, it was subtly endorsing one religion while condemning another.

“The district has to avoid the perception that it is endorsing religion, but it must do so without preferring one religion over another,” intoned David Blair-Loy, legal director of the ACLU’s San Diego franchise. “The district should be just as concerned that the prayer flags convey a message favoring Tibetan Buddhism as they are that Mr. Johnson’s banners express a Judeo-Christian message.”

Nonetheless, the secularist legal group agreed with the district’s actions against Johnson, noting that his banners emphasized religious, rather than historical, references in a supposedly non-religious setting. “The First Amendment mandates government neutrality not only between particular faiths, but between religion and non-religion,” argued the ACLU. “The school district therefore properly directed Johnson to remove the banners from his classroom, because it had legitimate concerns the banners presented serious Establishment Clause problems.”

While the [Thomas More Law Center](#), a conservative legal advocacy group that represented Johnson, made no formal comment following the 9th Circuit ruling, as the district appealed the lower court ruling the group’s president and chief counsel, Richard Thompson, suggested that the district’s officials had a “distaste for our nation’s Christian heritage represented by Mr. Johnson’s patriotic slogans. This is another example of public school boards attempting to eradicate the essential role played by Christianity in our nation’s history.”

Thompson added that the Thomas More Center would continue “in this fight for the long haul, and we intend to uphold our Constitution and the values it protects, including Mr. Johnson’s right to display his patriotic banners.”



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