

Texas Ten Commandments



Religious Symbols

- Question Presented: Does a Ten Commandments monument on the grounds of a state capitol building violate the First Amendment's establishment clause, which bars the government from passing laws "respecting an establishment of religion?"

Petitioner's Arguments

- First Participant
 - Facts
 - Argument
 - This is a religious symbol (Part I, Sec A)
 - There are different interpretations of this symbol, and by choosing one version the state is taking sides in a religious dispute (Part I, Sec B)
 - By only having this religious monument, the state is treating religions differently (discrimination, Part II, Sec A).

Petitioner's Arguments

- Second Participant

- NOTE – a 1 person team should make this argument plus the facts!

- Argument – The monument violates the Lemon Test

- ➔ It has a religious purpose (IIB)

- ➔ The monument is an impermissible endorsement of religion (IIC)

- Because of its placement (1), context (2) and content (3)

- Taken together a clear endorsement of religion (4)

Respondent's Arguments

- First Participant -
 - Facts
 - Argument - In context, this is not an endorsement of religion (I)
 - ➔ The Monument has a secular purpose (IB + subparts)
 - ➔ Because of context and history, a reasonable observer would not view this as an endorsement of religion. (IA + subparts)
 - NOTE – the brief for some reason argues these in opposite order.

Respondent

- Second Participant -
 - Arguments - History of monument demonstrates no establishment clause problem, it survives all tests, and is far less a problem than others things allowed by the Court.
 - History of this kind of monument shows there is no church/state problem (II)
 - The monument survives any test adopted by this Court (III)
 - This monument is far less problematic than others this Court has allowed to stay. (IV)

Solicitor General

- Do NOT give facts.
- Argument - Monument does not violate the Lemon Test.
 - Monument has a secular purpose
 - NOTE - argument is made in (C) but the arguments in (A) and (B) also support this claim.
 - Monument has a secular effect (D)
 - Uses Lynch as precedent, focuses on overall display (1)
 - Addresses idea of discrimination (2)

Things to Consider

- Do these displays have a secular purpose?
 - If yes, then unconstitutional.
- Do these displays endorse a particular religion?
 - If yes, then unconstitutional
- OR, should we use a test similar to the school prayer cases and be talking about coercion?

Additional Items of Note

- The courts have dealt with this issue in an inconsistent manner.
- The courts have also acknowledged the historical role that religion has played in the U.S.
 - Look at a dollar
 - Attend a session of Congress
 - Thanksgiving, Christmas, the Pledge of Allegiance, the Picture in the U.S. Supreme Court itself!

The Precedent

- Lynch v. Donnelly – Court upholds religious display that is part of secular display.
- Stone v. Graham – Court orders removal of Ten Commandments from school, saying the placement of them there has no other purpose than to promote religion.
- County of Allegheny v. ACLU
 - NOTE – read this case closely to see how judges apply different tests.

What About This?



<http://class.mblemieux.com/files-wp/northsouthwalls.pdf>