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WHEN JUDICIAL DECISIONS DO NOT GO THEIR WAY, PEOPLE ARE QUICK TO LABEL THOSE JUDGES WHO DISAGREE WITH THEM AS "ACTIVIST" JUDGES. BEFORE FALLING INTO THIS TRAP, IT IS NECESSARY TO ANALYZE THE REASONS GIVEN BY BOTH SIDES. SOMETIMES JUDGES ARE ACTIVIST JUDGES - OTHER TIMES, YOUR SIDE IS JUST WRONG.

IN THE CASE OF NEWDOW V. RIO LINDA UNION SCHOOL DISTRICT, THE PLAINTIFFS MICHAEL NEWDOW AND JAN ROE COMPLAINED THAT THE ADDITION OF THE WORDS "UNDER GOD" TO THE PLEDGE OF ALLEGIANCE IN 1954 WAS A VIOLATION OF THE FIRST AMENDMENT GUARANTEE AGAINST GOVERNMENT PROMOTION OF RELIGION. THEY LOST. THE VOTE WAS 2-1.

DURING THE NEXT 3 WEEKS WE WILL EXAMINE THE LOGIC AND REASONING BEHIND THE DECISION WRITTEN BY ONE OF THE JUDGES FOR THE MAJORITY. HOWEVER BEFORE BEGINNING, I WILL GIVE YOU JUST THE FIRST PARAGRAPH OF THE INTRODUCTION WRITTEN BY THE DISSENTING JUDGE.

THE DISSENT

BY STEPHEN REINHARDT, JUDGE FOR THE NINTH CIRCUIT COURT OF APPEALS

Introduction

Were this a case to be decided on the basis of the law or the Constitution, the outcome would be clear. Under no sound legal analysis adhering to binding Supreme Court precedent could this court uphold state-directed, teacher-led, daily recitation

of the “under God” version of the Pledge of Allegiance by children in public schools. It is not the recitation of the Pledge as it long endured that is at issue here, but its recitation with the congressionally added two words, “under God” — words added in 1954 for the specific religious purpose, among others, of indoctrinating public schoolchildren with a religious belief. The recitations of the amended version as conducted by the Rio Linda Union and other school districts fail all three of the Court’s Establishment Clause tests: The recitation of the Pledge in its historic secular version would not fail any of them. Only a desire to change the rules regarding the separation of church and state or an unwillingness to place this court

on the unpopular side of a highly controversial dispute regarding both patriotism and religion could explain the decision the members of the majority reach here and the lengths to which their muddled and self-contradictory decision goes in order to

reach the result they do.

NOW YOU HAVE HEARD JUDGE REINHARDT'S OPENING STATEMENT. INTERESTED PERSONS CAN READ THE ENTIRE CASE AT THIS LINK:

http://www.ushistory.org/betsy/images/courtdecision05-17257.pdf

THE DISSENT WHICH BEGINS ON PAGE 61 OF THAT DOCUMENT, LIKE THE OPENING PARAGRAPH ABOVE, IS MARVELOUSLY WELL-WRITTEN AND REASONED.

THE MAJORITY OPINION

BY CARLOS BEA, JUDGE FOR THE NINTH CIRCUIT COURT OF APPEALS

Introduction

We are called upon to decide whether the teacher-led recitation of the Pledge of Allegiance to the Flag of the United States of America, and to the Republic for which it stands, by students in public schools constitutes an establishment of religion prohibited by the United States Constitution. We hold it does not; the Pledge is constitutional.

CARLOS, THE PART OF THE PLEDGE THAT YOU JUST RECITED DOES NOT VIOLATE THE ESTABLISHMENT CLAUSE OF THE CONSTITUTION. THAT IS NOT WHAT YOU HAVE BEEN CALLED UPON TO DECIDE. YOU HAVE BEEN CALLED UPON TO DECIDE THE CONSTITUTIONALITY OF THE 1954 ADDITION OF THE WORDS "UNDER GOD."

The Pledge of Allegiance serves to unite our vast nation through the proud recitation of some of the ideals upon which our Republic was founded and for which we continue to strive: one Nation under God—the Founding Fathers’ belief that the people of this nation are endowed by their Creator with certain inalienable rights;

NO CARLOS, THE FOUNDING FATHERS DID NOT PUT "UNDER GOD" INTO THE PLEDGE. CAN YOU NAME ANY FOUNDING FATHERS WHO WERE STILL ALIVE IN 1892 WHEN THE PLEDGE WAS FIRST WRITTEN? NO, YOU CAN'T, BECAUSE THERE WERE NONE.

TRYING TO CONNECT TWO DIFFERENT IDEAS IN ONE SENTENCE BY SEPARATING THEM WITH A DASH TO GIVE THE IMPRESSION THEY WERE RELATED WAS VERY DECEITFUL. I WOULD HAVE EXPECTED MORE FROM A JUDGE.

VIRTUALLY EVERYONE BELIEVED IN A CREATOR IN THOSE DAYS. THE FACT THAT THEY BELIEVED IN A CREATOR IS JUST WHAT WOULD BE EXPECTED OF PEOPLE BEFORE THE DISCOVERIES OF SCIENCE DEMOLISHED BIBLICAL CLAIMS AND REVEALED THEM TO BE NOTHING MORE THAN ANCIENT FAIRY TALES.

TO ASSERT THAT A CREATOR GAVE US INALIENABLE RIGHTS WOULD FIRST REQUIRE THAT YOU PROVE THE EXISTENCE OF A CREATOR. THAT HAS NEVER BEEN DONE CARLOS. UNTIL YOU CAN, ANY INALIENABLE RIGHTS CLAIMED TO HAVE BEEN GIVEN BY THIS CREATOR ARE A MOOT POINT.

indivisible—although we have individual states, they are united in one Republic; with liberty—the government cannot take away the people’s inalienable rights; and justice for all—everyone in America is entitled to “equal justice under the law”

CARLOS, BUT EVERYONE IN AMERICA WASN'T ENTITLED TO EQUAL JUSTICE UNDER THE LAW, WERE THEY? SLAVES CERTAINLY WEREN'T ENTITLED TO EQUAL RIGHTS. WOMEN CERTAINLY WEREN'T ENTITLED TO EQUAL RIGHTS. IN FACT, IT SEEMS THE ONLY PEOPLE WHO WERE ENTITLED TO EQUAL RIGHTS UNDER THE LAW WERE OVERWEIGHT WHITE GUYS ... WITH GUNS.

Millions of people daily recite these words when pledging allegiance to the United States of America:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

CARLOS, OVER A BILLION MUSLIMS RECITE PASSAGES FROM THE KORAN 5 TIMES A DAY ... SO WHAT?

Pursuant to California Education Code 52720, the Rio Linda Union School District in California has a practice that every morning, willing students, led by their teachers, face the American Flag, place their right hands over their hearts, and recite the Pledge of Allegiance. Plaintiff Jan Roe is a self-proclaimed atheist whose child, RoeChild-2, attends elementary school in the School District. Roe filed suit alleging that the words “under God” in the Pledge offend her belief that there is no God, interfere with her right to direct her child’s upbringing, and indoctrinate her child with the belief that God exists. The parties have stipulated that RoeChild-2 has never recited the Pledge, but Roe nevertheless asks us to prohibit the recitation of the Pledge by other students.

CARLOS, CAN YOU POINT TO ANYWHERE IN THE COMPLAINT WHERE ROE MAKES THAT DEMAND? THE REASON YOU CANNOT IS BECAUSE THAT WAS A LIE. NO WHERE IN THE COMPLAINT, IS THE DEMAND YOU STATED, TO BE FOUND.

Thus, this case presents a familiar dilemma in our pluralistic society—how to balance conflicting interests when one group wants to do something for patriotic reasons that another groups finds offensive to its religious (or atheistic) beliefs.

SNEAKY CARLOS, VERY SNEAKY. YOU TRIED TO SHINE A POSITIVE LIGHT ON THE RELIGIOUS SIDE BY CLAIMING THEIR MOTIVE WAS STRICTLY PATRIOTIC. YET IF YOU RESTORE THE PLEDGE TO ITS ORIGINAL FORM BY REMOVING THE WORDS "UNDER GOD" WOULD THE PLEDGE BECOME UNPATRIOTIC? NO, IT WOULD NOT. FOR OVER 60 YEARS IT WAS CONSIDERED THE SYMBOL OF PATRIOTISM LONG BEFORE "UNDER GOD" WAS ADDED. SO ATHEISTS DID *NOT* FIND THE PLEDGE OFFENSIVE TO THEIR BELIEFS WHEN OTHERS PLEDGED ALLEGIANCE FOR PURELY PATRIOTIC REASONS.

YOU ARE ONE VERY DECEITFUL LITTLE MAN CARLOS.

In other words, does Roe have the right to prevent teachers from leading other students from reciting the Pledge of Allegiance—

CARLOS, ROE IS NOT THE ONE WHO SHOULD BE PREVENTING TEACHERS FROM BRINGING GOVERNMENT SPONSORED RELIGION INTO THE CLASSROOMS. YOU, AS A JUDGE, ARE THE ONE WHO SHOULD BE DOING THAT, AND YES, YOU DO HAVE THAT RIGHT. IN FACT, BY SWEARING TO UPHOLD THE CONSTITUTION ... YOU HAVE THAT DUTY.

something we all agree is a patriotic exercise —because the mention of God in the Pledge offends her as an atheist?

CARLOS, SINCE THE ENGLISH DICTIONARY DOESN'T SEEM TO BE YOUR BEST FRIEND, LET ME HELP YOU OUT. FROM DICTIONARY.COM, PATRIOTISM:

"Devoted love, support, and defense of one's country; national loyalty."

CARLOS, NO WHERE IS BELIEF IN GOD REQUIRED IN ORDER FOR ONE TO BE PATRIOTIC. IN FACT, AS ANY CHRISTIAN WILL TELL YOU, THEIR LOYALTY IS TO GOD BEFORE COUNTRY; THAT WOULD MAKE ATHEISTS MORE PATRIOTIC THAN CHRISTIANS. EVEN THE PLEDGE ITSELF PLACES THE NATION *UNDER* GOD. THEREFORE THE ADDITION OF "UNDER GOD" ACTUALLY REDUCES THE LEVEL OF PATRIOTISM IN THE PLEDGE.

THAT ONE DIDN'T WORK OUT TOO WELL FOR YOU, DID IT CARLOS?

The Pledge reflects many beliefs held by the Founding Fathers of this country—the same men who authored the Establishment Clause—

CARLOS, THE PLEDGE WAS WRITTEN MORE THAN A CENTURY AFTER THE FOUNDING FATHERS WROTE THE CONSTITUTION. IT LIKELY DOES REFLECT MANY OF THEIR BELIEFS. BUT THE MEN WHO AUTHORED THE ESTABLISHMENT CLAUSE MADE IT CLEAR THAT ALL AMERICANS WERE FREE TO WORSHIP THE GOD OF THEIR CHOICE. THEY MADE IT JUST AS CLEAR THAT NO PARTICULAR RELIGION COULD BE IMPOSED UPON AMERICANS. WHEN "UNDER GOD" WAS ADDED TO THE PLEDGE, THAT IS EXACTLY WHAT HAPPENED.

including the belief that it is the people who should and do hold the power, not the government.

CARLOS, WHAT THE HELL DOES THAT MEAN? PEOPLE HOLD THE POWER TO ELECT GOVERNMENT. GOVERNMENT HOLDS THE POWER TO COLLECT TAXES, WAGE WAR, AND RUN THE COUNTRY. WHAT COULD YOU POSSIBLY MEAN BY GOVERNMENT NOT HOLDING POWER?

They believed that the people derive their most important rights, not from the government, but from God:

CARLOS, FIRST PROVE YOUR INVISIBLE MAN IS ANYTHING OTHER THAN A FIGMENT OF YOUR IMAGINATION, THEN YOU CAN WORRY ABOUT PROVING THAT HE GAVE US INALIENABLE RIGHTS.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.

CARLOS, THE STATUS OF SLAVES AND WOMEN ALREADY DESTROYED THE MYTH THAT THE FOUNDING FATHERS BELIEVED THAT ALL MEN WERE CREATED EQUAL, SO THAT "TRUTH" WAS APPARENTLY NOT AS SELF-EVIDENT AS YOU SEEM TO THINK IT WAS.

ANOTHER QUESTION: SINCE SLAVES WEREN'T ENDOWED BY THEIR CREATOR WITH LIBERTY, AND YOU WERE, MAYBE THEY HAD A DIFFERENT CREATOR? THEY COULDN'T HAVE HAD THE SAME CREATOR AS THOSE WHO WERE BORN FREE, BECAUSE THAT WOULD BE A CONTRADICTION.

AND THE FACT THAT THE FATHERS BELIEVED IN A CREATOR BEFORE SCIENCE ACCUMULATED TONS OF EVIDENCE TO THE CONTRARY IS NOT SOMETHING THEY NEED BE TO BE ASHAMED OF ... BUT YOU SHOULD BE.

The Founders did not see these two ideas—that individuals possessed certain God-given rights which no government can take away, and that we do not want our nation to establish a religion—as being in conflict.

CARLOS, WHO SAID THEY WERE IN CONFLICT? THEY ARE TWO SEPARATE IDEAS.

Not every mention of God or religion by our government or at the government’s direction is a violation of the Establishment Clause.

CARLOS, WHO SAID IT WAS? THE ESTABLISHMENT CLAUSE DOES NOT PREVENT THE MENTION OF GOD - IT ONLY PREVENTS THE IMPOSITION OF GOD.

THAT MAKES 2 CONSECUTIVE STATEMENTS WHERE YOU HAVE CREATED STRAW MAN ARGUMENTS. DIDN'T YOUR LAW SCHOOL INCLUDE ANY COURSES ON LOGIC?

(“Nor does the Constitution require complete separation of church and state; it affirmatively mandates accommodation, not merely tolerance, of all religions, and forbids hostility toward any.”).

CARLOS, RECITING A PLEDGE THAT HAS BEEN ALTERED TO INCLUDE YOUR INVISIBLE FRIEND IS NOT ACCOMMODATION, IT IS IMPOSITION. THE HOSTILITY THAT IS FORBIDDEN, IS HOSTILITY TOWARDS RELIGION, NOT HOSTILITY TOWARDS THE IMPOSITION OF RELIGION.

The Supreme Court has upheld several government actions that contained a religious element against Establishment Clause claims: a display of the Ten Commandments on the Texas State Capitol grounds; the display of a Chanukah menorah outside a City-County Building; the display of a Nativity scene in a public Christmas display; a state legislature’s practice of opening each day with a prayer led by a chaplain paid with state funds; a state’s property tax exemption for religious organizations; and a township’s program for reimbursing parents for the cost of transporting their children to parochial schools. Each of these cases involved religion.

CARLOS, BY YOUR OWN ADMISSION ABOVE, EACH OF THESE CASES CONTAINED A RELIGIOUS ELEMENT AGAINST THE ESTABLISHMENT CLAUSE OF THE U.S. CONSTITUTION. NOW YOU CAN ADD THIS DECISION, WRITTEN BY YOU, TO THE LIST OF FIRST AMENDMENT VIOLATIONS FORCED UPON THE PEOPLE BY GHOST WORSHIPPERS WHO REFUSE TO OBEY THE CLEARLY WRITTEN STATEMENTS OF THE FIRST AMENDMENT, AND WHO MISUSE THEIR POWER TO CIRCUMVENT THE WILL OF THE FOUNDING FATHERS.

ALSO CARLOS, DON'T THINK WE DIDN'T NOTICE HOW YOU SWITCHED THE WORD "STATEMENTS" WITH "CLAIMS." THE FIRST AMENDMENT DOESN'T MAKE CLAIMS - IT STATES LAW.

But taken in context, none of the government actions violated the Establishment Clause. The plaintiffs and the dissent focus solely on the words “under God” in isolation, stripped of all context and history.

CARLOS, THAT IS BECAUSE THOSE WORDS WERE ADDED IN ISOLATION, WITHOUT ANY CONTEXT OR HISTORY. SINCE THE POSITION OF THE PLAINTIFFS AND THE DISSENT IS CORRECT AND YOU CANNOT DEFEND AGAINST THE CLEAR WORDING OF THE FIRST AMENDMENT, YOUR ONLY RECOURSE IS TO RETREAT INTO THE EXCUSE OF "CONTEXT"; AND THEN INTERPRET THAT CONTEXT THE WAY YOU NEED IT TO BE INTERPRETED.

Plaintiffs and the dissent even go so far as to disregard the plain text of the preamble to Title 4 U.S.C. Section 4 which sets forth that Congress had two primary purposes in including the phrase “one nation under God”

NO CARLOS. CONGRESS NEVER ADDED THE PHRASE "ONE NATION UNDER GOD." CARLOS, IF YOU ARE GOING TO ENGAGE IN MAKING, HOW CAN I PUT THIS DELICATELY, FALSE STATEMENTS, THEN AT LEAST ENGAGE IN LIES THAT ARE NOT CHILD'S PLAY TO DISPROVE.

in the Pledge: (1) to underscore the political philosophy of the Founding Fathers that God granted certain inalienable rights to the people which the government cannot take away;

CARLOS, IF YOU'LL OPEN UP THAT DUSTY OLD BIBLE THAT YOU DON'T SEEM VERY FAMILIAR WITH, YOU'LL DISCOVER THAT YOUR GOD WASN'T ALL THAT BIG ON THE INALIENABLE RIGHT OF LIBERTY ... FOR SLAVES. YOU WILL ALSO FIND PASSAGES THAT INDICATE THAT YOUR GOD WASN'T A BIG FAN OF THE INALIENABLE RIGHT TO LIFE ... FOR ALMOST EVERYONE HE CAME INTO CONTACT WITH. AND THE INALIENABLE RIGHT OF "PURSUIT OF HAPPINESS" HE LIMITED ONLY TO THOSE WHO WORSHIPPED HIM; FOR THOSE WHO REFUSED, OR WORSHIPPED OTHER GODS, HE NOT ONLY REVOKED THE INALIENABLE RIGHT OF THE PURSUIT OF HAPPINESS, BUT THE INALIENABLE RIGHT TO LIFE AS WELL.

SO CARLOS, MY QUESTION IS, SINCE THE BIBLE IS PROOF THAT GOD DID NOT BELIEVE IN ANY OF THE INALIENABLE RIGHTS FOUND IN THE DECLARATION OF INDEPENDENCE, WHERE DID THEY COME FROM?

SINCE RESEARCH DOESN'T SEEM TO BE YOUR STRONG POINT CARLOS, LET ME HELP YOU GET STARTED BY PROVIDING THIS LINK FOR YOU:

http://en.wikipedia.org/wiki/natural\_and\_legal\_rights

and (2) to add the note of importance which a Pledge to our Nation ought to have and which ceremonial references to God invoke.

CARLOS, THAT NOTE OF IMPORTANCE IS ONLY INVOCATIVE ... FOR CHRISTIANS.

The Supreme Court has instructed us to do otherwise: “Focus exclusively on the religious component of any [governmental] activity would inevitably lead to its invalidation under the Establishment Clause.” Were the correct focus as the dissent suggests, all of the above examples would have been found to violate the Establishment Clause, for all contain religious symbols or words.

CARLOS ... BINGO!

On the contrary, under Supreme Court law we are instructed to examine the history and context in which the phrase “one Nation under God” is used so that we may discern Congress’ “ostensible and predominant” purpose when it enacted the Pledge.

CARLOS, THAT PHRASE WAS NOT IN THE PLEDGE WHEN CONGRESS ENACTED IT. SO YOUR ANALYSIS FAILS BEFORE IT EVEN BEGINS.

EVERYONE KNOWS WHAT THE OSTENSIBLE AND PREDOMINANT PURPOSE WAS TO ADDING "UNDER GOD" TO THE PLEDGE. TO PRETEND THAT IT IS ANYTHING OTHER THAN A PROMOTION OF YOUR RELIGION IS DISHONEST. THERE IS ONLY ONE POSSIBLE EXPLANATION FOR WHY YOU ARE PRETENDING TO BE SO INCREDIBLY DENSE ... AND THAT IS DISHONESTY. IT IS YOUR ONLY RECOURSE WHEN THE EVIDENCE IS CLEARLY AGAINST YOUR POSITION.

Because California Education Code section 52720 as implemented by the School District’s Policy requires the recitation of the Pledge as a whole, we must examine the Pledge as a whole, not just the two words the Plaintiffs find offensive.

CARLOS, THE PLEDGE HAD ALREADY BEEN EXAMINED AS A WHOLE FOR DECADES AND NO ONE COMPLAINED. THE PROBLEM BEGAN WHEN CHRISTIANS FORCED THEIR BELIEFS INTO THE PLEDGE WITH THE ADDITION OF "UNDER GOD."

In doing so, we find the Pledge is one of allegiance to our Republic, not of allegiance to the God or to any religion.

CARLOS, YOUR READING COMPREHENSION SKILLS ARE ASTOUNDING (NO CARLOS, THAT WAS NOT A COMPLIMENT). THE WORDS "ONE NATION" REFER TO THE "REPUBLIC," WHICH, AS YOU JUST ADMITTED, IS THE OBJECT OF ALLEGIANCE. BY ADDING "UNDER GOD" TO "ONE NATION" THERE IS NOW AN ALLEGIANCE REQUIRED TO THE CHRISTIAN GOD UNDER WHOSE LAWS THAT NATION EXISTS.

CARLOS, HERE'S A LINK TO HOOKED ON PHONICS. YOU CAN THANK ME AFTER YOU FINISH THE COURSE.

http://www.hookedonphonics.com/learn-to-read/?ShowPopup=0&gclid=CJLA7-OvnaoCFQFUgwodGFwuxg

Furthermore, Congress’ ostensible and predominant purpose when it enacted and amended the Pledge over time was patriotic, not religious.

CARLOS, THE ISSUE IS NOT THE CHANGES THAT WERE MADE OVER TIME. THE ISSUE IS THE CHANGE THAT WAS MADE IN 1954.

The Supreme Court has agreed the Pledge is a “patriotic exercise designed to foster national unity and pride.”

CARLOS, I AGREE TOO. SO DOES NEWDOW. IT'S THE RELIGIOUS PART THAT WAS ADDED THAT DETRACTS FROM NATIONAL UNITY BY EXCLUDING THOSE WHO REFUSE TO ACKNOWLEDGE THE EXISTENCE OF YOUR INVISIBLE GHOST.

The question about which we disagree is whether this patriotic activity is turned into a religious activity because it includes words with religious meaning.

CARLOS, NO ONE IS CLAIMING THE PLEDGE HAS BEEN TURNED INTO A "RELIGIOUS ACTIVITY." THEY ARE CLAIMING THAT RELIGION HAS BEEN INJECTED INTO A PATRIOTIC ACTIVITY.

We hold that the Pledge of Allegiance does not violate the Establishment Clause because Congress’ ostensible and predominant purpose was to inspire patriotism

CARLOS, TO MAKE THAT STATEMENT WOULD REQUIRE THAT YOU NEVER RESEARCHED THE CONGRESSIONAL RECORDS FOR EVEN ONE MINUTE; BECAUSE IF YOU HAD, YOU WOULD HAVE SEEN THAT YOUR CLAIM IS DISPROVEN BY NEARLY EVERY SINGLE MEMBER OF CONGRESS. THEIR STATEMENTS ARE FOREVER ETCHED INTO HISTORY.

FOR YOU TO MISREPRESENT, WHAT CAN BE EASILY RESEARCHED AND PROVEN WRONG, DEFIES THE VERY DEFINITION OF SANITY. BUT SINCE I FIND NO EVIDENCE OF ANYONE ACCUSING YOU OF INSANITY, THAT LEAVES ONLY ONE ALTERNATIVE: CARLOS, YOU ARE A VERY, VERY DISHONEST MAN.

and that the context of the Pledge—its wording as a whole, the preamble to the statute, and this nation’s history—demonstrate that it is a predominantly patriotic exercise.

CARLOS, THERE IS NO CONTENTION ABOUT THE PLEDGE AS A WHOLE. YOU KEEP TRYING TO DISTRACT EVERYONE AWAY FROM THE ISSUE AT HAND. THE REASON WHY YOU DO SO IS BECAUSE YOU CAN'T DEFEND AGAINST THE TRUTH, SO DECEIT IS YOUR ONLY OPTION.

For these reasons, the phrase “one Nation under God” does not turn this patriotic exercise into a religious activity.

CARLOS, WE ALREADY AGREED WITH YOU ON THAT. NO ONE IS CLAIMING THE PLEDGE IS A RELIGIOUS ACTIVITY. IT IS A PATRIOTIC ACTIVITY INTO WHICH RELIGION HAS BEEN INJECTED. AND THE PHRASE UNDER CONTENTION IS NOT THE ONE YOU KEEP QUOTING, TO AVOID THE OBVIOUS RELIGIOUS INTENT, OF THE PHRASE THAT *IS* UNDER CONTENTION.

Accordingly, we hold that California’s statute requiring school districts to begin the school day with an “appropriate patriotic exercise” does not violate the Establishment Clause even though it permits teachers to lead students in recitation of the Pledge.

CARLOS, THE REQUIREMENT TO BEGIN THE DAY WITH AN APPROPRIATE PATRIOTIC EXERCISE WOULD HAVE TO INVOLVE TEACHERS LEADING STUDENTS. WHOM ARE YOU SAYING, IS CLAIMING THAT VIOLATES THE FIRST AMENDMENT? NO ONE IS SAYING THAT. THAT WAS YET ANOTHER STRAW MAN ARGUMENT.

YOU KNOW CARLOS, I WOULD HAVE SAID THAT FOR A JUDGE YOU HAVE SOME OF THE MOST FEEBLE REASONING SKILLS I HAVE EVER SEEN. HOWEVER, DESPITE HOW FEEBLE YOUR REASONING SKILLS MAY BE, IT IS CLEAR THAT IT IS YOUR LACK OF INTEGRITY THAT IS THE MAIN ISSUE HERE. YOU ARE ONE OF THE MOST DISHONEST MEN I HAVE EVER ENCOUNTERED - AND I DEAL WITH CREATIONISTS FOR A LIVING ... SO I KNOW DISHONESTY.

In doing so we join our sister circuits who have held similar school policies do not violate the Establishment Clause. Therefore, we reverse the district court’s judgment and vacate the permanent injunction prohibiting the daily recitation of the Pledge in the School District.

Standing

Even though Plaintiffs do not assert they have standing to challenge the 1954 Amendment, the Dissent assumes they do. Plaintiffs do not have standing to challenge the 1954 Amendment because no federal statute requires plaintiffs to recite the Pledge.

CARLOS, BUT THE SCHOOL DISTRICT DOES REQUIRE STUDENTS TO RECITE THE PLEDGE. THEREFORE, IF THE PLEDGE HAS BEEN MADE ILLEGAL BY THE ADDITION OF THE WORDS "UNDER GOD" THEN THE SCHOOL DISTRICT IS REQUIRING STUDENTS TO RECITE A PLEDGE WHICH IS IN VIOLATION OF THE FIRST AMENDMENT. MAYBE THAT'S WHY THE DISSENT ASSUMES THEY HAVE STANDING.

Even under the School District’s Policy, children “may choose not to participate in the flag salute for personal reasons” or they can simply omit any words they find offensive.

CARLOS, LET'S PLAY PRETEND. PRETEND YOUR KID IS IN A CLASS AND REQUIRED TO PLEDGE ALLEGIANCE TO "ONE NATION UNDER ALLAH." I WONDER HOW YOUR TUNE WOULD CHANGE IF YOU WERE TOLD THAT YOUR KID COULD JUST OMIT THE WORD "ALLAH?"

ACTUALLY CARLOS, I DON'T WONDER AT ALL. I HAVE NO DOUBT THAT IN THAT CASE, PARAMEDICS WOULD BE RUSHING TO YOUR SIDE WITH A DEFIBRILLATOR.

To satisfy standing requirements, a plaintiff must prove: “(1) he has suffered an ‘injury in fact’ that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) the injury is fairly traceable to the challenged action of the defendant; and (3) it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision.”

CARLOS, IF YOU GO BACK TO THE SITUATION I JUST CREATED WITH ALLAH, I'M SURE YOU WOULD BE ABLE TO COME UP WITH A LIST A MILE LONG OF CONCRETE AND PARTICULARIZED INJURIES; AND I'M SURE YOU COULD EASILY TRACE THOSE INJURIES BACK TO THE ACTIONS OF THE DEFENDANTS. BUT WHEN YOUR RELIGION IS THE VILLAIN, YOU SUDDENLY BECOME BLIND. WHAT A SURPRISE.

Plaintiffs are unable to show the 1954 amendment causes them to suffer any concrete and particularized injury because nothing in the Pledge actually requires anyone to recite it.

CARLOS, IT IS THE SCHOOL DISTRICT WHICH REQUIRES THEM TO RECITE IT - THAT IS WHY THEY ARE SUING THE SCHOOL DISTRICT. CARLOS, DID YOU HAVE A FULL BREAKFAST THIS MORNING? I ASK BECAUSE THAT LAST LITTLE NUGGET SUGGESTS THAT YOUR PREFRONTAL CORTEX MAY BE TRYING TO OPERATE ON TOO LITTLE SUGAR.

To the contrary, however, because the Pledge does not mandate that anyone say it, Newdow has no personal injury to contest its wording in the courts. Rather, his remedy must be through the legislative branch.

CARLOS, IT WAS THE LEGISLATIVE BRANCH WHICH PASSED THIS UNCONSTITUTIONAL ADDITION TO THE PLEDGE TO BEGIN WITH. IT IS THE JUDICIAL BRANCH OF GOVERNMENT WHICH IS TASKED WITH THE DUTY TO REPEAL UNCONSTITUTIONAL ACTS OF THE LEGISLATURE. DIDN'T THEY TEACH YOU THAT IN LAW SCHOOL? HELL, THEY TAUGHT ME THAT ... IN HIGH SCHOOL.

The Lemon Test

We turn now to the merits of the plaintiffs’ Establishment Clause claims. There are three possible tests for determining whether a statute violates the Establishment Clause—the Lemon test, the Endorsement test and the Coercion Test. We examine each in turn. Plaintiffs contend the School District’s policy violates the Establishment Clause test announced in Lemon v. Kurtzman, commonly known as the “Lemon test.” (“The Lemon test remains the benchmark to gauge whether a particular government activity violates the Establishment Clause.”).

Under the Lemon test, to be constitutional

(1) the challenged governmental action must have a secular purpose;

WELL CARLOS, IT SOUNDS LIKE YOU ALREADY FAILED THE TEST AND YOU JUST BARELY LEFT THE STARTING GATE. YOU'RE NOT GOING TO TRY TO CLAIM THAT "UNDER GOD" HAS A SECULAR PURPOSE ... ARE YOU CARLOS?

AND CARLOS, IF GOVERNMENTAL ACTION MUST HAVE A SECULAR PURPOSE, THEN THAT KIND OF KILLS THE LIE THAT CHRISTIANS KEEP SPREADING ABOUT THE FIRST AMENDMENT *NOT* SEPARATING CHURCH FROM STATE, DOESN'T IT?

(2) “its principal or primary effect must be one that neither advances nor inhibits religion”;

CARLOS, NOW THAT'S JUST ADDING INSULT TO INJURY. YOU ALREADY FAILED THE TEST, AND NOW YOU'VE FAILED IT AGAIN. IF "UNDER GOD" DOES NOT ADVANCE RELIGION, EXACTLY WHAT DOES?

and (3) it “must not foster an excessive government entanglement with religion.”

CARLOS, THAT'S 3 STRIKES AND YOU'RE OUTTA HERE. "UNDER GOD" ENTANGLES RELIGION WITH THE PLEDGE OF ALLEGIANCE WHICH, AS YOU YOURSELF POINTED OUT EARLIER, IS A PATRIOTIC ACTIVITY. PATRIOTIC ACTIVITIES CAN ONLY APPLY TO GOVERNMENTS CARLOS, NOT TO RELIGION.

The School District’s Policy must satisfy all three prongs of the Lemon test.

CARLOS, THE SCHOOL DISTRICT'S POLICY SATISFIED NONE OF THE PRONGS.

Under each prong of this test, we first examine California Education Code section 52720 and the School District’s Policy and then, because the School District’s Policy states that recitation of the Pledge will suffice, we also examine the Pledge.

California Education Code section 52720 and the School District’s Policy Are Constitutional under the Lemon test. California Education Code section 52720 states as follows: In every public elementary school each day during the school year at the beginning of the first regularly scheduled class or activity period at which the majority of the pupils of the school normally begin the school day, there shall be conducted appropriate patriotic exercises. The giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy the requirements of this section. Individuals may choose not to participate in the flag salute for personal reasons.

CARLOS, SO IF YOU WERE IN A LAND WHERE THE PLEDGE WAS TO ALLAH, WOULD YOU JUST REFUSE TO PARTICIPATE?

DUDE, YOU CAN'T EVEN IMAGINE HOW MUCH I WOULD GIVE TO SEE YOU TRY IT.

AND DON'T THINK THAT AMERICA IS ALL THAT MUCH BETTER; THOSE WHO HAVE TRIED IT, HAVE PAID THE PRICE FOR NOT CONFORMING.

All parties agree that the “ostensible and predominant” purpose of both California Education Code section 52720 and the School District’s Policy is patriotic. We agree. The plain wording of California Education Code section 52720 and the School District’s Policy both express a secular purpose: to encourage the performance of patriotic exercises in public school. Not only does the plain wording provide for the students to begin the day with a “patriotic exercise”, but it does not mandate the text of the Pledge or any other patriotic exercise.

WELL THEN CARLOS, I GUESS THERE IS NOTHING TO PREVENT A PLEDGE TO A NATION UNDER ALLAH IS THERE? DO YOU WANT US TO BELIEVE THAT YOU WOULD ACCEPT THAT? I'LL BET YOUR REASONING WOULD CHANGE REAL FAST IF THAT WERE THE CASE; AND THE WAY THINGS ARE GOING CARLOS, IT MIGHT NOT BE ALL THAT LONG BEFORE YOU GET TO FIND OUT. WORLDWIDE, YOUR GOD IS CRASHING, WHILE THEIR GOD IS COMING ON LIKE GANGBUSTERS. WHO KNOWS, MAYBE THE TRUE INVISIBLE GHOST RIDES A CAMEL?

The Pledge is one acceptable alternative.

CARLOS, THAT WAS TRUE ... BEFORE 1954.

Because only a patriotic exercise is encouraged and no particular text is mandated, the California statute and the School District’s policy are neutral toward religion.

CARLOS, THEY ARE NOT ASKING TO CHANGE THE SCHOOL'S POLICY. THEY ARE ASKING FOR THE PLEDGE TO BE RETURNED TO ITS CONSTITUTIONAL FORM, FREE OF RELIGIOUS REFERENCES.

Lemon’s second prong is also met. The effect of California Education Code section 52720 and the School District’s Policy is stated quite clearly in each: each school shall conduct “appropriate patriotic exercises” daily. There is no mention of anything religious in either.

CARLOS, BUT THE PLEDGE THEY USE DOES MENTION RELIGION.

Further, although the recitation of the Pledge “shall satisfy” this requirement, it is not mandated under California law. Schools could decide to have the children learn and recite a different historical document each week, or participate in another patriotic activity, such as working on a project to help the nation. Recitation of the Pledge is just one of many ways to satisfy this patriotic requirement.

CARLOS, THOSE WERE EXCELLENT IDEAS. YET ALL ACROSS THE LAND, NONE OF YOUR GREAT IDEAS ARE BEING IMPLEMENTED. EVERYONE JUST TAKES THE LAZY WAY OUT AND RECITES THE POST-1954 PLEDGE.

Plaintiffs also concede that Lemon’s third prong, “excessive [governmental] entanglement” with religion, is not violated by California Education Code section 52720 or the School District’s Policy, and we agree. Neither involves any entanglement with religion at all, let alone excessive entanglement.

CARLOS, IT ISN'T THE POLICIES THAT ENTANGLE GOVERNMENT AND RELIGION, IT IS THE ALTERED PLEDGE. MAN YOU ARE DENSE.

The Pledge of Allegiance Is Constitutional under the Lemon test. Because the School District’s Policy states that recitation of the Pledge will fulfill the policy, we also examine the Pledge itself. We begin our analysis with the least controversial elements of the Lemon test in this case.

A. The Pledge does not involve any excessive entanglement with religion. Plaintiffs concede that the Pledge does not violate Lemon’s third prong, “excessive [governmental] entanglement” with religion, and we agree. There is no excessive entanglement with religion.

B. The primary or principal effect of the Pledge is neither to advance nor inhibit religion. The Supreme Court has said the Pledge is a “common public acknowledgment of the ideals that our flag symbolizes.

CARLOS, OUR FLAG SYMBOLIZES THE IDEAL OF GOD ... ONLY FOR CHRISTIANS. THAT LEAVES ABOUT 25% OF OUR POPULATION EXCLUDED.

Its recitation is a patriotic exercise designed to foster national unity and pride in those principles.” The Pledge also has the permissible secular effect of promoting an appreciation of the values and ideals that define our nation. The recitation of the Pledge is designed to evoke feelings of patriotism, pride, and love of country, not of divine fulfillment or spiritual enlightenment.

CARLOS, THEN WHY ADD "UNDER GOD?"

In sum, the students are simply supporting the nation through their Pledge “to the Flag of the United States of America and to the Republic for which it stands.”

CARLOS, YOU WERE THE ONE WHO KEPT HARPING ABOUT TAKING THE PLEDGE AS A WHOLE. YET NOW, YOU QUOTE ONLY THAT PART THAT IS PATRIOTIC AND IGNORE THE PART THAT DIVIDES US INTO GHOST WORSHIPPERS AND RATIONAL PEOPLE.

Thus, the Pledge passes Lemon’s second prong.

CARLOS, ONLY IF YOU IGNORE THE FACTS; WHICH YOU ARE PROVING ... IS NOT A PROBLEM FOR YOU.

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THE SCIENCE SEGMENT

EVOLVED STARS LOCKED IN FATALISTIC DANCE

WHITE DWARFS ARE THE BURNED-OUT CORES OF STARS LIKE OUR SUN. ASTRONOMERS HAVE DISCOVERED A PAIR OF WHITE DWARFS SPIRALING INTO ONE ANOTHER AT BREAKNECK SPEEDS. TODAY, THESE WHITE DWARFS ARE SO NEAR THEY MAKE A COMPLETE ORBIT IN JUST 13 MINUTES, BUT THEY ARE GRADUALLY SLIPPING CLOSER TOGETHER. ABOUT 900,000 YEARS FROM NOW -- A BLINK OF AN EYE IN ASTRONOMICAL TIME -- THEY WILL MERGE AND POSSIBLY EXPLODE AS A SUPERNOVA. BY WATCHING THE STARS CONVERGE, SCIENTISTS WILL TEST BOTH EINSTEIN'S GENERAL THEORY OF RELATIVITY AND THE ORIGIN OF SOME PECULIAR SUPERNOVAE.

THE TWO WHITE DWARFS ARE CIRCLING AT A BRACING SPEED OF 370 MILES PER SECOND, OR 180 TIMES FASTER THAN THE FASTEST JET ON EARTH.

THE BRIGHTER WHITE DWARF CONTAINS ABOUT A QUARTER OF THE SUN'S MASS COMPACTED INTO A NEPTUNE-SIZED BALL, WHILE ITS COMPANION HAS MORE THAN HALF THE MASS OF THE SUN AND IS EARTH-SIZED. A PENNY MADE OF THIS WHITE DWARF'S MATERIAL WOULD WEIGH ABOUT 1,000 POUNDS ON EARTH.

THEIR MUTUAL GRAVITATIONAL PULL IS SO STRONG THAT IT DEFORMS THE LOWER-MASS STAR BY THREE PERCENT. IF EARTH BULGED BY THE SAME AMOUNT, WE WOULD HAVE TIDES 120 MILES HIGH.

THE DISCOVERY TEAM HAS BEEN HUNTING FOR PAIRS OF WHITE DWARFS USING THE MMT TELESCOPE AT THE WHIPPLE OBSERVATORY ON MT. HOPKINS, ARIZONA. THESE STAR PAIRS ARE TOO CLOSE TOGETHER TO DISTINGUISH PHOTOGRAPHICALLY. BY LOOKING AT THE SPECTRA, HOWEVER, RESEARCHERS WERE ABLE TO DIFFERENTIATE THE TWO STARS AND MEASURE THEIR RELATIVE MOTIONS. THESE STARS ARE ALSO ORIENTED SUCH THAT THEY ECLIPSE EACH OTHER EVERY 6 MINUTES.

IF THERE WERE ALIENS LIVING ON A PLANET AROUND THIS STAR SYSTEM, THEY WOULD SEE ONE OF THEIR TWO SUNS DISAPPEAR EVERY 6 MINUTES -- A FANTASTIC LIGHT SHOW.

THESE ECLIPSES PROVIDE A VERY ACCURATE CLOCK, WHICH IS EXTREMELY USEFUL FOR MEASURING ANY CHANGES IN THE SYSTEM.

GENERAL RELATIVITY PREDICTS THAT MOVING OBJECTS WILL CREATE RIPPLES IN THE FABRIC OF SPACE-TIME, CALLED GRAVITATIONAL WAVES. THESE WAVES CARRY AWAY ENERGY, CAUSING THE STARS TO INCH CLOSER TOGETHER AND ORBIT EACH OTHER FASTER AND FASTER.

THOUGH SCIENTISTS HAVE NOT YET DIRECTLY MEASURED GRAVITATIONAL WAVES WITH MODERN INSTRUMENTS, THEY CAN TEST THEIR EXISTENCE BY MEASURING THE CHANGE IN THE SEPARATION OF THESE TWO STARS. BECAUSE THEY DON'T SEEM TO BE EXCHANGING MASS, THIS SYSTEM IS AN EXCEPTIONALLY CLEAN LABORATORY TO PERFORM SUCH A TEST.

THE TEAM EXPECTS TO CONDUCT THIS TEST IN A FEW MONTHS, WHEN THE STAR PAIR EMERGES FROM BEHIND THE SUN AS SEEN FROM EARTH.

SOME MODELS PREDICT MERGING WHITE DWARF PAIRS SUCH AS THESE ARE THE SOURCE OF A RARE CLASS OF UNUSUALLY FAINT STELLAR EXPLOSIONS CALLED UNDERLUMINOUS SUPERNOVAE.

THIS WORK WILL PROVIDE AN IMPORTANT OBSERVATIONAL TEST ON THEORIES OF WHITE DWARF MERGERS, WHICH ARE THOUGHT TO PRODUCE MANY KINDS OF SUPERNOVAE, NOT JUST THE UNDERLUMINOUS TYPE.

http://www.cfa.harvard.edu/news/2011/pr201119.html

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FAMOUS QUOTES

BILL MAHER (PREVIOUSLY QUOTED SO I WILL SKIP THE BIOGRAPHY).

"THE FREE MARKET IS FREE IN THE SAME WAY A REALITY SHOW IS REAL."