

Court Splits on Ten Commandments Displays

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By HOPE YEN

(AP) People enter the McCreary County Courthouse in Whitley City, Ky., Monday, June 27, 2005. The...Full Image

WASHINGTON (AP) - A sharply divided Supreme Court on Monday upheld the constitutionality of displaying the Ten Commandments on government land, but drew the line on certain renderings inside courthouses, saying they violate the doctrine of separation of church and state. Sending dual signals in ruling on this issue for the first time in a quarter-century, the high court said that displays of the Ten Commandments - like their own courtroom frieze - are not inherently unconstitutional. But each exhibit demands scrutiny to determine whether it goes too far in amounting to a governmental promotion of religion, the court said in a case involving Kentucky courthouse exhibits. In effect, the court said it was taking the position that issues of Ten Commandments displays in courthouses should be resolved on a case-by-case basis. In that 5-4 ruling and another decision involving the positioning of a 6-foot granite monument of the Ten Commandments on the grounds of the Texas capitol, Justice Sandra Day O'Connor was the swing vote. The second ruling, likewise, was by a 5-4 margin.

(AP) Veterans and supporters watch as Paul Worthington, commander of the local American Legion post,... Full Image

Justice Antonin Scalia released a stinging dissent in the courthouse case, declaring, "What distinguishes the rule of law from the dictatorship of a shifting Supreme Court majority is the absolutely indispensable requirement that judicial opinions be grounded in consistently applied principle." The justices voting on the prevailing side in the Kentucky case left themselves legal wiggle room, saying that some displays inside courthouses - like their own courtroom frieze - would be permissible if they're portrayed neutrally in order to honor the nation's legal history. But framed copies in two Kentucky courthouses went too far in endorsing religion, the court held. Those courthouse displays are unconstitutional, the justices said, because their religious content is overemphasized. In contrast, a 6-foot-granite monument on the grounds of the Texas Capitol - one of 17 historical displays on the 22-acre lot - was determined to be a legitimate tribute to the nation's legal and religious history. "Of course, the Ten Commandments are religious - they were so viewed at their inception and so remain. The monument therefore has religious significance," Chief Justice William H. Rehnquist wrote for the majority in the case involving the display outside the state capitol of Texas. "Simply having religious content or promoting a message consistent with a religious doctrine does not run afoul of the Establishment clause," he said. Rehnquist was joined in his opinion by Scalia, and Justices Anthony Kennedy and Clarence Thomas. Justice Stephen G. Breyer filed a separate opinion concurring in the result. The rulings were the court's first major statement on the Ten Commandments since 1980, when justices barred their display in public schools. But the high court's split verdict leaves somewhat unsettled the role of religion in American society, a question that has become a flashpoint in U.S. politics. "While the court correctly rejects the challenge to the Ten Commandments monument on the Texas Capitol grounds, a more fundamental rethinking of our Establishment Clause jurisprudence remains

in order," Thomas wrote in a separate opinion.

Dissenting in the Texas case, Justice John Paul Stevens argued the display was an improper government endorsement of religion. Stevens noted in large letters the monument proclaims 'I AM the LORD thy God.'"

"The sole function of the monument on the grounds of Texas' State Capitol is to display the full text of one version of the Ten Commandments," Stevens wrote.

"The monument is not a work of art and does not refer to any event in the history of the state," Stevens wrote. "The message transmitted by Texas' chosen display is quite plain: This state endorses the divine code of the Judeo-Christian God."

Justices O'Connor, David H. Souter and Ruth Bader Ginsburg also dissented.

The case was one of two heard by the Supreme Court in March involving Ten Commandments displays, in a courtroom boasting a wall carving of Moses holding the sacred tablets.

In Texas, the Fraternal Order of Eagles donated the exhibit to the state in 1961, and it was installed about 75 feet from the Capitol in Austin. The group gave thousands of similar monuments to American towns during the 1950s and '60s.

Thomas Van Orden, a former lawyer who is now homeless, challenged the display in 2002. He lost twice in the lower courts in holdings the Supreme Court affirmed Monday.

Meanwhile in Kentucky, two counties originally hung the copies of the Ten Commandments in their courthouses. After the ACLU filed suit, the counties modified their displays to add other documents demonstrating "America's Christian heritage," including the national motto of "In God We Trust" and a version of the Congressional Record declaring 1983 the "Year of the Bible."

When a federal court ruled those displays had the effect of endorsing religion, the counties erected a third Ten Commandments display with surrounding documents such as the Bill of Rights and Star-Spangled Banner to highlight their role in "our system of law and government."

The Cincinnati-based 6th U.S. Circuit Court of Appeal subsequently struck down the third display as a "sham" for the religious intent behind it.

Ten Commandments displays are supported by a majority of Americans, according to an AP-Ipsos poll. The poll taken in late February found that 76 percent support it and 23 percent oppose it.

The cases are McCreary County v. ACLU, 03-1693, and Van Orden v. Perry, 03-1500.

On the Net:

The ruling in McCreary County v. ACLU is available at:

<http://wid.ap.org/documents/scotus/050627mccreary.pdf>

The ruling in Van Orden v. Perry is available at:

<http://wid.ap.org/documents/scotus/050627vanorden.pdf>