



Written by [Bob Adelman](#) on October 4, 2021

## Camp Constitution's "Christian Flag" Lawsuit Will be Heard by the Supreme Court

Just days before the start of its fall term, the Supreme Court [agreed to hear a case](#) that could set a precedent: that Boston's denial of a group's request to fly the Christian flag in front of City Hall is unconstitutional.

For years the three flagpoles in front of Boston's City Hall have flown, on one pole the flag of the United States and (under it) the POW/MIA flag, on another pole the flag of the state of Massachusetts, and on the third pole the city's flag — though often the city will allow outside groups to fly their own flags from it.



Photo: Ajax9/iStock/Getty Images Plus

Groups wanting to fly their own flag from the third flagpole must apply to city for approval and from June 2005 through June 2017 Gregory Rooney, head of Boston's property management division, has approved every one. Every single one — a total of 284 flag-raising events were approved, without exception.

But, in June 2017 three members of The John Birch Society applied for approval to fly the Christian flag (a white flag with a cross appearing on a blue background in the upper left corner) as part of an event to celebrate Constitution Day. The three — former JBS staffers Hal Shurtleff and Charlie Everett and JBS Chapter Leader Ruth Harper — founded Camp Constitution in 2009 to organize and operate summer camps to, as its website says, "enhance understanding of our Judeo-Christian moral heritage ... [and] to find, develop, and train leaders in the freedom fight."

Their application was denied.

In an interview with *The New American*, Shurtleff pointed out that the flagpole has flown the Chinese Communist flag, the Cuban Communist flag, the "gay" pride flag, and the transgender flag, as well as flags from numerous foreign countries. It flew the Vatican flag when the Pope held a religious service — Mass — on the Boston Commons.

It even flew the Turkish flag, which depicts the Islamic star and crescent.

But, said Shurtleff, "when our application was denied because we wanted to fly the Christian flag, we just simply could not let this go." The discrimination against the group because it wanted to fly the Christian flag was so blatant and obvious that the group enlisted the assistance of Liberty Counsel, a non-profit legal group specializing in such assistance. "The city," said Shurtleff, "would have approved our application if we had called it the Camp Constitution flag, according to Rooney, but the fact that we called it the Christian flag was anathema. And our application was denied, and we called off the celebration."

Three non-profit law firms expressed interest in representing Shurtleff, and Liberty Counsel was chosen. Liberty Counsel filed a lawsuit on behalf of Boston resident Hal Shurtleff and his Christian civic



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organization, Camp Constitution, arguing that the city of Boston violated the First Amendment by censoring a private flag in a public forum merely because the application form referred to the flag as a “Christian flag.”

It added:

Under oath, the city official [Rooney] testified [that] the flag would have been approved if the application did not refer to it as a “Christian flag.” The word “Christian” on the application alone triggered the censorship...

His testimony revealed that if Camp Constitution had not referred to the flag on the application with the word “Christian,” it would not have been censored.

Liberty Counsel’s founder and chairman Mat Staver added:

We look forward to the U.S. Supreme Court hearing Boston’s unconstitutional discrimination against Camp Constitution’s Christian viewpoint. The city cannot deny the Christian flag because it is “Christian” and allow every other flag to fly on its flagpole.

There is a crucial difference between government endorsement of religion and private speech, which government is bound to respect.

Censoring religious viewpoints in a public forum where secular viewpoints are permitted is unconstitutional and this case will set a national precedent.

Prior to the Supreme Court agreeing to hear the case, the circuit court ruled against Shurtleff and Camp Constitution, claiming that the third flagpole belonged to the city and the city was therefore free to approve or deny its use. The appeals court affirmed, adding that the city was merely exercising its right to “government speech,” which was not subject to the First Amendment guarantee. Obama-appointed U.S. District Court Judge Denise Casper argued that the flagpole was city property, and flying a flag there was “government speech” and not private expression. Therefore, she held that flying a Christian flag was an unlawful endorsement of religion.

On appeal, U.S. Court of Appeals for the 1st District’s three-judge panel affirmed Casper’s decision. Judge Bruce Selya, a Reagan appointee, alleged that the display of all “three flags flying in close proximity communicates the symbolic unity of the three flags.”

Selya added:

The city has never before displayed such a flag and, as such, this pioneering elevation of an “important symbol” of the Christian heritage would come without [outside] the secular context [the city demands]....

The raising of the Christian flag thus would threaten to communicate and endorse a purely religious message on behalf of the city ... therefore ... the city’s establishment concerns are legitimate.

The high court will hear oral arguments after the first of the year and issue its opinion next June.

It must be noted that Hal Shurtleff is a former field staff member of The John Birch Society as well as a



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life member who credits The JBS for helping him have a knowledge and appreciated of the U.S. Constitution.

Is flying a Christian flag on government property unconstitutional? Hats off to the folks at Camp Constitution for getting such an important case all the way to the U.S. Supreme Court!



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