



## Football Coach Has First Amendment Right to Pray, Rules the Supreme Court

In its ruling in [Kennedy v. Bremerton School District](#) released on Monday, the Supreme Court not only upheld the First Amendment's guarantee of the right to free speech and the exercise of religion, but it also challenged, for the first time, the canard that the Establishment Clause creates the illusion of "separation of church and state."

Bremerton School District bought the canard and refused to renew football coach Joe Kennedy's contract when he persisted in praying on the 50-yard line at the conclusion of each game. The district thought it was avoiding a lawsuit.



Coach Joe Kennedy (AP Images)

Instead it brought on an eight-year-long series of lawsuits that could have been avoided if the district had simply issued a statement that Kennedy wasn't speaking for the school when he prayed.

Supreme Court Justice Neal Gorsuch reamed the district for not only punishing Kennedy by not renewing his contract, but for deliberately and intentionally making his religious expression its target.

Wrote Gorsuch:

The Free Exercise and Free Speech Clauses of the First Amendment protect an individual engaging in a personal religious observance from government reprisal; the Constitution neither mandates nor permits the government to suppress such religious expression.

At issue was Kennedy's kneeling and praying in public view after each game. This was, in the district's view, a violation of the separation of church and state. Such view has been pushed for decades, using Thomas Jefferson's private letter to the Danbury Baptists as the battering ram to remove all religious expression from the culture.

Gorsuch explained:

The contested exercise here does not involve leading prayers with the team; the District disciplined Mr. Kennedy only for his decision to persist in praying quietly without his students after three games in October 2015.

In forbidding Mr. Kennedy's brief prayer, the District's challenged policies were neither neutral nor generally applicable.

By its own admission, the District sought to restrict Mr. Kennedy's actions at least in part because of their religious character.

Prohibiting a religious practice was thus the District's unquestioned "object."



Written by [Bob Adelman](#) on June 28, 2022

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Gorsuch concluded:

Respect for religious expressions is indispensable to life in a free and diverse Republic.

Here, a government entity sought to punish an individual for engaging in a personal religious observance, based on a *mistaken view* that it has a duty to suppress religious observances even as it allows comparable secular speech. [Emphasis added]

The Constitution neither mandates nor tolerates that kind of discrimination. Mr. Kennedy is entitled to summary judgment on his religious exercise and free speech claims.

Nowhere in the 75-page ruling does the phrase “separation of church and state” appear. But Rachel Laser, the president of Americans United for Separation of Church and State, which represented Bremerton, saw the threat clearly enough. In anticipation of the ruling Laser said:

[I]f we lose this case, it would be a radical departure from decades of well-established law protecting students’ religious freedom.

We think it would open the door that could be kicked in, in particular in this climate where there’s a real escalation in religious extremists across our country, to allow teachers and coaches to be able to pray again and pressure students to pray in school.

Without this writer commenting on her claim of the “real escalation of religious extremists” except to say that it is highly welcome and timely, Gorsuch answered her charge that those former freedoms to pray in school might be in jeopardy in future court rulings: “That the First Amendment doubly protects religious speech is no accident. It is the natural outgrowth of the framers’ distrust of government attempts to regulate religion and suppress dissent.”

As for Coach Kennedy, it has been a long and difficult eight years. But in his letter to *Fox News*, he wrote:

No one should be fired from their job just because [he or she] can be seen engaged in private prayer....

I hope [the ruling] means that our public school teachers and coaches don’t have to hide their faith from view....

Win or lose, when the whistle blows and everyone shakes hands, you’ll find me at the 50-yard line on a knee in private prayer.

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