



Written by [Warren Mass](#) on December 13, 2017

Judge Rules that D.C. Can Ban “Religious” Christmas Ads on City Buses

A federal appeals court judge on December 8 denied the Catholic Archdiocese of Washington’s request for an injunction against the Washington Metropolitan Area Transit Authority (WMATA), challenging the agency’s refusal to allow the Archdiocese to purchase advertising on D.C. buses that featured a Christmas message. The complaint filed with the U.S. District Court for the District of Columbia on November 28, stated that, “the Archdiocese wishes to access a widely available advertising platform on the exterior of public 2 buses as they traverse public thoroughfares to convey a simple message of hope in connection with the Christmas season.”



The proposed ad featured silhouettes of shepherds and sheep under a star-filled sky and the words: “Find the *perfect* gift.”

U.S. District Judge Amy Berman Jackson denied the Archdiocese’s request, finding that since buses are controlled by a government agency, the authority’s rules likely are legal and reasonable because WMATA’s restrictions are not based on whether the agency opposes the advertiser’s particular views; it supposedly doesn’t allow any “issue-oriented” advertising.

Jackson dismissed the Archdiocese’s argument that WMATA accepts advertisements that promote yoga practices as a mechanism to “take you on an inner journey of self-discovery” and to lead to the “acknowledgment of one soul to another,” as well as advertisements from the Salvation Army, which is “an openly religious organization based on Protestant Christian principles.”

“It is about as distant from the ancient Indian religious traditions that gave rise to yoga as Black Friday at Best Buy is from Bethlehem,” she wrote.

The judge went on to write that WMATA’s decision was sound and in the interest of public safety. “The regulation is reasonably aligned with WMATA’s duty to provide safe, reliable transportation and it does not violate the First Amendment,” asserted Jackson.

As Jackson continued her ruling, she made it plain that her primary objection to the ad was its religious nature. She wrote:

The advertisement does not seek to address a general, otherwise permissible topic from a religious perspective — the sole purpose of directing the public to www.findtheprecfectgift.org is to promote religion. The website declares: “JESUS is the perfect gift. [F]ind the perfect gift of God’s love this Christmas.”

A report from Catholic New Service noted that in previous years the Archdiocese advertised on



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WMATA's public buses, apparently without objection. Up until 2015, the complaint stated, the Archdiocese purchased WMATA space for ads that "were explicitly religious in character."

The complaint stated:

These advertisements included a campaign highlighting the importance of the sacrament of reconciliation during the liturgical season of Lent. This campaign, "The Light Is on for You," was remarkably successful for the archdiocese — and lucrative for WMATA — with advertisements on the backs of 85 buses throughout the metropolitan area.

However, two years ago WMATA changed its advertising policies. The transit agency's Media Relations Manager Sherri Ly explained the changes to CBN News:

In 2015, WMATA changed its advertising policy to prohibit issue-oriented advertising, including political, religious and advocacy advertising. The ad in question was declined because it is prohibited by WMATA's current advertising guidelines.

WMATA claims that the policy change came after a 2015 cartoon contest in Garland, Texas, where participants were asked to depict Mohammed, ended in violence.

WMATA said the group behind that contest also attempted to purchase ads in Washington in the past. Ed McFadden, the secretary for communications for the Archdiocese of Washington, said: "While this preliminary ruling that there should be no room granted for us on WMATA buses is disappointing, we will continue to pursue and defend our right to share the important message of Christmas in the public in the coming days."

In an earlier statement, made when the Archdiocese first filed its request for an injunction, but before its complaint was rejected, McFadden said:

The rejected ad conveys a simple message of hope, and an invitation to participate in the Christmas season. Yet citing its guidelines, WMATA's legal counsel said the ad "depicts a religious scene and thus seeks to promote religion. To borrow from a favorite Christmas story, under WMATA's guidelines, if the ads are about packages, boxes or bags ... if Christmas comes from a store ... then it seems WMATA approves. But if Christmas means a little bit more, WMATA plays Grinch.

In another statement, Kim Fiorentino, the Archdiocese of Washington's chancellor and general counsel, said: "We believe rejection of this ad to be a clear violation of fundamental free speech and a limitation on the exercise of our faith."

The Catholic News Service reported on December 12 that two days after Jackson rejected its request for an emergency injunction, the Archdiocese of Washington filed an appeal with the U.S. Court of Appeals for the District of Columbia Circuit. While it may be too late for the Archdiocese's advertising campaign to go forward during this Christmas season, as the appeals process moves along, the true spirit of Christmas may eventually prevail.

Image: Screenshot from Archdiocese' ["Perfect Gift" website](#)



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