



Written by [Bob Adelman](#) on November 23, 2021

Liberty Counsel Files Brief in Boston's "Christian Flag" Controversy

In Liberty Counsel's brief filed at the Supreme Court last week, it claimed that Boston's denial of Camp Constitution's request to fly the Christian flag violated both the First and the 14th Amendments to the U.S. Constitution:

When Camp Constitution applied to raise a flag during its flag raising event [on September 17, 2017] to celebrate the civic contributions of Boston's Christian community, during the week of the national recognition of Constitution Day and Citizenship Day, the City denied the request without viewing the flag solely because it was called "Christian" on the application.



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Such a denial, said the brief, "conflicts with [the Supreme Court's] precedents holding that speech restrictions based on religious viewpoint or content violate the First Amendment."

There are three flagpoles in front of Boston's City Hall. One of them flies the city's flag (which depicts the City Seal, containing the inscription SICUT PATRIBUS, SIT DEUS NOBIS — "God be with us as He was with our fathers"). But frequently the city will allow outside groups to fly their own flags from it to celebrate various events.

Camp Constitution wanted to fly the Christian flag for about an hour while some pastors and the founder of the camp made brief presentations about the Christian influence on Boston's history.

It was expected to be a slam dunk. After all, at no time in the previous 12 years had any of the 284 requests from other groups to fly their flags been denied. But, said Hal Shurtleff, the founder of the camp, "when our application was denied because we wanted to fly the Christian flag, we just simply could not let this go." He said that it was the word "Christian" that forced the denial. Said Shurtleff, "The fact that we called it the Christian flag was anathema [to the city]. Our application was denied, and we called off the celebration."

And they filed suit. With the help of Liberty Counsel they appealed lower courts' support of Boston's decision, which claimed that somehow the "government speech" being exercised by the city in its denial was not covered by the First Amendment.

But the Bunker Hill flag to commemorate the Revolutionary War Battle of Bunker Hill was allowed to be displayed, which is virtually identical to the Christian flag (except for reverse color schemes and a pine tree in the upper left corner).

In announcing the filing of the brief, Liberty Counsel Founder and Chairman Mat Staver said:



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Liberty Counsel looks forward to presenting this nationally important case to the Supreme Court. It is indisputable that Boston denied the private flag raising solely because the application contained the word “Christian” before the word “flag.” It was this single word that resulted in the first censorship of a private flag raising application after 12 years with no denials.

Censoring religious viewpoints in a public forum where secular viewpoints are permitted is unconstitutional. This case will have a national impact. Religious viewpoints must not be excluded from the marketplace.

That is exactly the point made by the brief:

The City’s reason for denying Camp Constitution’s flag raising event was precisely and only because the City deemed the flag objectionable, because it was called a “Christian Flag” on the application, even though Camp Constitution’s purpose — to commemorate the contributions of one of Boston’s diverse communities to the City and the Commonwealth — otherwise fit perfectly with the City’s permitted subject matters according to the City’s purposes for allowing flag raisings.

The flag’s appearance was not objectionable to [the city], but the flag’s description as “Christian” on the application triggered the denial.

If the flag had not been described as “Christian,” [the city] would have approved it.

Because viewpoint discrimination is prohibited in a designated public forum, the City’s exclusion of Camp Constitution’s flag for its Christian viewpoint was unconstitutional.

Oral arguments begin before the high court in January with a decision expected to be rendered in June 2022.

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