

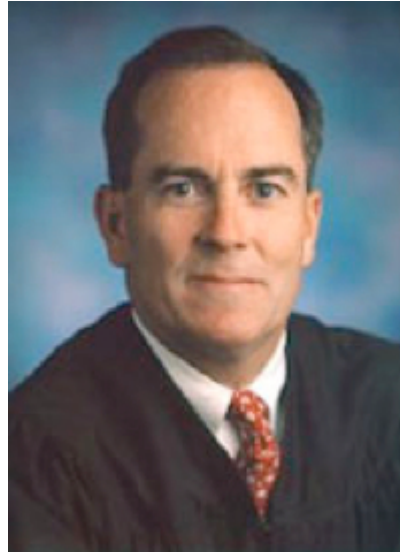


Written by [Dave Bohon](#) on November 2, 2011

## Court: Kentucky May Acknowledge Dependence Upon God

A three-judge panel of the Kentucky Court of Appeals has ruled that it is permissible for the state to acknowledge its dependence upon God. The decision overturns a 2009 lower court ruling that a state law requiring the acknowledgement of God “created an official government position on God.”

Following the 9/11 terrorist attacks, Kentucky state lawmakers issued a legislative “finding” that “the safety and security of the commonwealth cannot be achieved apart from reliance on Almighty God.” And in 2006, as it passed legislation creating the state Office of Homeland Security, the legislature included a requirement that the executive director acknowledge “dependence on Almighty God” in training manuals and on a plaque at the entrance to the department’s headquarters.



In 2008, after a group of individuals challenged the legislation in a lawsuit, 35 of Kentucky’s 38 state senators and 96 of its 100 state representatives signed friend-of-the-court briefs defending the law.

In his majority opinion, Judge Laurance VanMeter (pictured above) disagreed with Franklin Circuit Judge Thomas Wingate’s assertion that the legislation in question “seeks to place an affirmative duty upon the Commonwealth’s citizenry to rely on ‘Almighty God’ for protection of the Commonwealth.”

Wrote VanMeter: “The legislation merely pays lip service to a commonly held belief in the puissance [power] of God. The legislation complained of here does not seek to advance religion, nor does it have the effect of advancing religion, but instead seeks to recognize the historical reliance on God for protection.”

The judge added that the reference to God could not be considered unconstitutional because “that rationale would place this section at odds with the [Kentucky] Constitution’s Preamble,” which thanks “Almighty God” for the welfare and freedom of the commonwealth.

In a lone dissent, reported Kentucky’s [Courier-Journal](#), Senior Judge O’Malley Shake argued that “Wingate was correct in saying the legislation has an ‘impermissible effect of endorsing religion because it was enacted for a predominantly religious purpose and conveyed a message of mandatory religious belief.’”

The two-judge majority buttressed their ruling with the example of an Ohio law, upheld by a federal appeals court in 2001, establishing the phrase “With God, All Things Are Possible” as a state motto. The Kentucky appeals court said that the Ohio ruling was in harmony with a long tradition of “all three government branches recognizing the role of religion in American life.”

Edwin Kagin, national legal director for the American Atheists and the plaintiffs’ lead attorney,



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confessed to being “a little stunned” with the ruling, calling it a “move toward a theocracy” by the state. “The reasoning of Judge Shake was so accurate and so compelling,” he complained. He said he thought the overwhelming number of friend-of-the-court briefs filed by Kentucky legislators was a major factor in the court’s ruling. “The legislature has no business to tell the court that their actions are constitutional,” he contended.

Former Alabama Chief Justice Roy Moore of the [Foundation for Moral Law](#), along with Col. Ron Ray, an attorney and founder of Kentucky’s [First Principles Press](#), filed an [amicus curiae brief](#) in this case on behalf of the 35 state Senators, pointing out that an acknowledgment of God does not violate the Establishment Clause of the First Amendment.

Moore called the ruling “a great victory for the Commonwealth of Kentucky. The Appeals Court recognized ... that just like our National Motto ‘In God We Trust’ and other examples throughout history, the mere acknowledgment of the sovereignty of the Judeo-Christian God was not a violation of the Establishment Clause — and it never will be.”



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