



Written by [Raven Clabough](#) on March 12, 2010

Court Upholds “Under God” and “In God We Trust”

A San Francisco federal appeals court ruled that the words “under God” in the Pledge of Allegiance and “In God We Trust” on American money are constitutional. In the explanation for the majority ruling, Judge Carlos Bea wrote, “The Pledge of Allegiance serves to unite our vast nation through the proud recitation of some of the ideals upon which our Republic was founded.”



The challenger was Sacramento atheist Michael Newdow who claimed that the references to God violated his religious beliefs, or lack thereof. When addressing his concerns to the Ninth United States Circuit Court of Appeals, Newdow asserted, “I want to be treated equally” and claimed that his supporters “want to have their religious views espoused by the government.”

The basis of Newdow’s lawsuit is that the pledge and “In God We Trust” violate “the separation of church and state,” a maxim often cited by atheists in lawsuits such as these. Contrary to popular belief, however, the “separation of church and state” is not found in the Constitution. Instead, it comes from an 1802 letter written by Thomas Jefferson to the Baptist Association of Danbury, Connecticut. Separationists, as those like Newdow have been dubbed, believe that when Jefferson wrote, “I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should ‘make no law regarding an establishment of religion, or prohibiting the free exercise thereof,’ thus building a wall of separation between Church and State,” he summarized the intent of the First Amendment.

This is a somewhat distorted interpretation of the First Amendment, which has driven people like Newdow and groups like the ACLU to cite “separation of church and state” in lawsuit after lawsuit. In actuality, the First Amendment reads, “Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.” Simply stated, the First Amendment forbids Congress from declaring a national religious denomination. This is the true “interpretation,” though the simple language requires little interpretation, that Americans have subscribed to for 170 years after it was written. James Madison explained that the First Amendment was written because “the people feared one sect might obtain a preeminence ... and establish a religion to which they would compel others to conform.” Nowhere in the constitution does it claim that there is a separation of church and state.

It really wasn’t until 1947 that the United State Supreme Court in *Everson v Board of Education* misconstrued this Amendment. Justice Hugo Black explained, “The First Amendment has erected a wall between church and state. That wall must be kept high and impregnable.”

In the case of Newdow, the same court that ruled against him on Thursday ruled in his favor after he sued his daughter’s school district in 2002 for having students recite the Pledge of Allegiance in school.



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Once the case reached the United States Supreme Court in 2005, however, his lawsuit was rejected because he did not have custody of his daughter, rendering Newdow without any legal standing.

In response, Newdow utilized his position as a lawyer and doctor to file an identical challenge on behalf of other parents who had the same issues with the recitation of the Pledge of Allegiance. A Sacramento federal judge ruled in Newdow's favor in 2005 declaring the pledge unconstitutional.

On Thursday, however, the Ninth Circuit of Appeals ruled by a 2-1 majority that the phrase "under God" is constitutional, and in a separate ruling, with a vote of 3-0, that "In God we Trust" is too constitutional.

Newdow's initial response to the decision was "Oh man, what a bummer," though he plans to follow-up with a comment after he has read the decision fully.



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