



Written by [Dave Bohon](#) on April 15, 2011

Federal Court Rules in Favor of National Day of Prayer

An appeals court has overturned a federal judge's decision that the National Day of Prayer is unconstitutional and has ordered the dismissal of a lawsuit challenging the President's right to proclaim the annual observance. As reported by the Associated Press, "A three-judge panel of the Seventh U.S. Circuit Court of Appeals ruled the Madison, Wis.-based Freedom From Religion Foundation did not have standing to sue because while they disagree with the president's proclamation, it has not caused them any harm."



In April 2010 U.S. District Judge Barbara Crabb ruled that the National Day of Prayer, established by Congress in 1952 and proclaimed by every President since Harry Truman, amounted to an unconstitutional call for religious action on the part of the government — a decision President Obama appealed.

Following the tradition of his predecessors, on April 30, 2010 Mr. Obama issued his own proclamation, calling on Americans to join him the following May 6 "to pray, or otherwise give thanks, in accordance with their own faiths and consciences, for our many freedoms and blessings...."

Writing for the three-member panel, Chief Judge Frank Easterbrook (picture, above) noted that "a feeling of alienation cannot suffice as injury" by those who disagree with the prayer day, adding that no one is being forced to pray "any more than a person would be obliged to hand over his money if the President asked all citizens to support the Red Cross or other charities." While those who disagree with the proclamation "may speak in opposition to it, they are not entitled to silence the speech of which they disapprove," the judge, a Reagan appointee, wrote in his summary.

Easterbrook noted that President Lincoln's mentioned God seven times and prayer three in his second inaugural address — which is famously engraved on the Lincoln Memorial in the nation's capital. "An argument that the prominence of these words injures every citizen, and that the Judicial Branch could order them to be blotted out, would be dismissed as preposterous," he wrote.

Annie Laurie Gaylor, co-president of the [Freedom From Religion Foundation](#), called the court's decision cowardly, insisting that the outcome would have been far different had the court ruled on the merits of the case rather than throwing it out on standing. "Our challenge is so strong, our claim is so correct," she said. The First Amendment says, 'Congress shall make no law respecting an establishment of religion.' 'No law' should mean no law!"

Gaylor fairly shouted that "Congress and the President of the United States have no business telling me or any other citizen to pray, 'to turn to God in prayer at churches,' much less setting aside an entire day for prayer every year and even telling me what to pray about."

The group said that it would seek a re-hearing on the case from the full Seventh Circuit Court.

Another secularist, the Rev. Barry Lynn of [Americans United for the Separation of Church and State](#),



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said in a prepared statement that the decision “is part of an ominous trend in the federal courts to deny Americans the right to challenge church-state violations.” Linn’s group filed a brief in support of the FFRF’s case.

Lynn said that using the court’s logic, “Congress could order the President to declare the United States a Christian nation — and no one could challenge it in court. That, to be blunt, makes a mockery of the First Amendment’s religious liberty protections.” He asserted that government “shouldn’t be in the business of advising people to pray, period. Americans who want to engage in religious activities are quite capable of consulting the religious leaders of their choice.”

Among conservative, Christian groups, comments over the ruling were somewhat different. Attorney Kevin Theriot of the [Alliance Defense Fund](#), which filed a friend of the court brief in the case on behalf of the non-profit group National Day of Prayer Task Force, applauded the decision, saying that public official “should be able to participate in public prayer activities just as America’s founders did. The Seventh Circuit has clearly understood that the Freedom From Religion Foundation simply had no legal standing to attack the federal statute setting a day for the National Day of Prayer simply because the group is offended by religion.”

Richard Land, president of the Southern Baptist Ethics and Religious Liberty Commission, told [Baptist Press News](#) that the decision was a confirmation that “sanity still reigns at the appellate court level, at least in the Seventh Circuit. The idea that the National Day of Prayer is unconstitutional is absurd on its face. The First Amendment guarantees freedom of religion, not freedom from religion.” Land noted that America has been observing a national prayer day “long before the Constitution was ratified and ever since the Constitution was ratified, and, God willing, we will have them for many centuries into the future.”

Tony Perkins, president of the [Family Research Council](#), commended the court “for rejecting even the idea of a federal lawsuit that demands this kind of religious expression be scrubbed from the public square.” Perkins noted that Americans enjoy religious freedoms “not because of the courts but because our founders recognized that religious liberty is a gift of God...” Contrary to the argument of secularists, he said, religion “cannot be banned in America because it was never imposed — not by the Founding Fathers, and certainly not by the National Day of Prayer. Americans pray voluntarily, and exercising that right together as they have done since the founding, as a willing nation, is exactly what the Founding Fathers intended.”

FRC attorney Ken Klukowski, lead counsel on an *amicus* brief the group filed in the case, said that one key to protecting the religious liberty that Americans have long enjoyed “is to stop harassing lawsuits by militant atheists who try to scour away our constitutional guarantees. The Seventh Circuit correctly held that the plaintiffs here lack standing, as rejecting a President’s invitation to pray if you are so moved is not an ‘injury’ that entitles you to file a lawsuit.” He added that the decision “is a reminder of the paramount importance of good judges on the federal bench.”



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