



Written by [Raven Clabough](#) on April 16, 2010

Judge Rules National Day of Prayer Unconstitutional

A Wisconsin federal judge was in rare form yesterday when she declared the National Day of Prayer to be unconstitutional. U.S. District Judge Barbara Crabb defended her decision when she wrote, "It is because the nature of prayer is so personal and can have such a powerful effect on a community that the government may not use its authority to try to influence an individual's decision whether and when to pray."



The day of prayer was called into question in 2008, when the Freedom From Religion Foundation, an organization of atheists based in Madison, Wisconsin, filed a lawsuit against the federal government insisting that the day was a violation of the maxim, "separation of Church and state," an axiom that does not appear in the Constitution. Judge Crabb's ruling represents the decision for this case.

Established in 1952, it wasn't until 1988 that the federal government determined that the National Day of Prayer would be celebrated on the first Thursday of every May. On this day, American Presidents issue a proclamation asking the citizens to pray. The relevant statute states, "The President shall issue each year a proclamation designating the first Thursday in May as a National Day of Prayer on which the people of the United States may turn to God in prayer and meditation at churches, in groups, and as individuals."

President Obama's administration has surprisingly defended the National Day of Prayer, explaining that it is simply an acknowledgement of the role religion plays in the lives of most Americans. Matt Leirich, spokesman for Obama, indicates that President Obama still intends to issue a proclamation for the next National Day of Prayer, scheduled to take place on May 6.

In response to these claims, Judge Crabb contests, "It goes beyond mere 'acknowledgment' of religion because its sole purpose is to encourage all citizens to engage in prayer, an inherently religious exercise that serves no secular function in this context. In this instance, the government has taken sides on a matter that must be left to individual conscience."

Stating that the National Prayer Day came about as a result of a speech given by Reverend Billy Graham, Crabb asserts that the day is a violation of the Establishment Clause of the First Amendment, which states, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." How a request for citizens to optionally engage in prayer during their free time violates a law stating Congress cannot establish a national religion remains unclear.

Several groups have come out in opposition to the ruling. The American Center for Law and Justice (ACLU) has already indicated intent to appeal, accusing the judge's reasoning as being "flawed." Chief



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counsel of the ACLJ Jay Sekulow states, “It is unfortunate that this court failed to understand that a day set aside for prayer for the country represents a time-honored tradition that embraces the First Amendment, not violates it.”

The brief filed by the ACLJ points out that the United States has recognized a national day of prayer as far back as the 1700s, when the Continental Congress recommended that states set apart a day for prayer and thanksgiving.

The appeal filed by the ACLJ also represents 31 members of the 111th Congress, including Representatives John Boehner, Eric Cantor, and Mike Pence.

In addition to the ACLJ, the Alliance Defense Fund accuses Crabb’s ruling of rejecting American tradition that can be traced back to the country’s inception.

Crabb has acknowledged that her decision should not bar prayer days until “the conclusion of any appeals filed by defendants or the expiration of defendants’ deadline for filing an appeal, whichever is later.” The United States Justice Department is currently evaluating the ruling.



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