

Court upholds right of coach to pray at midfield

June 27, 2022

The U.S. Supreme Court ruled a high school football coach's post-game prayers at midfield are protected by the First Amendment, not a violation of its prohibition on the government establishment of religion.

[Kennedy v. Bremerton School District](#) involved whether the school district acted properly when it dismissed Coach Joseph Kennedy.



Football Coach Joe Kennedy leads players in a post-game prayer on the field in 2015. (Video screen grab)

Kennedy—an assistant coach with the Bremerton (Wash.) High School varsity football team and head coach of the junior varsity team—began in 2008 walking to the 50-yard line after each game, where he would kneel and pray. Kennedy continued the practice for the seven years, often joined by players.

During the 2015 season, the school district superintendent sent a letter to Kennedy telling him to refrain from the post-game prayers, saying his practice likely violated the Establishment Clause.

After abiding by the mandate for a few weeks, Kennedy returned to his former practice of praying at midfield and was joined by others.

The U.S. Ninth Circuit Court of Appeals in San Francisco twice ruled against Kennedy. Last year, a three-judge panel of the Ninth Circuit Court said the school district would have violated the First Amendment's Establishment Clause if it had permitted Kennedy to continue to engage in his on-field religious exercise after games.

Majority emphasize Free Exercise and Free Speech

The Supreme Court on June 27 ruled 6-3 in Kennedy's favor. Writing for the majority, Justice Neil Gorsuch asserted both the Free Exercise Clause and the Free Speech Clause of the First Amendment protected Kennedy's actions.

"Respect for religious expressions is indispensable to life in a free and diverse republic—whether those expressions take place in a sanctuary or on a field, and whether they manifest through the spoken word or a bowed head," Gorsuch wrote.

In the Kennedy case, he asserted, "a government entity sought to punish an individual for engaging in a brief, quiet, personal religious observance doubly protected by the Free Exercise and Free Speech Clauses of the First Amendment."

The school district's action "rested on a mistaken view that it had a duty to ferret out and suppress religious observances even as it allows comparable secular speech," Gorsuch concluded. He added, "The Constitution neither mandates nor tolerates that kind of discrimination."

Dissent emphasizes No Establishment

In a dissenting opinion, Justice Sonia Sotomayor asserted the court's majority paid "almost exclusive attention to the Free Exercise Clause's protection for individual religious exercise while giving short shrift to the Establishment Clause's prohibition on state establishment of religion."

"This decision does a disservice to schools and the young citizens they serve, as well as to our nation's longstanding commitment to the separation of church and state," Sotomayor wrote.

The ruling "sets us further down a perilous path in forcing states to entangle themselves with religion, with all of our rights hanging in the balance," she wrote. "As much as the court protests otherwise, today's decision is no victory for religious liberty."

'Freedoms are not to be curtailed'

The [Southern Baptist Ethics & Religious Liberty Commission](#) joined in three friend-of-the-court briefs in support of Kennedy.

A brief jointly submitted by the ERLC, the Billy Graham Evangelistic Association, the National Association of Evangelicals and others stated: "The Establishment Clause does not require public schools to be policed as religion-free zones, and a reasonable, objective person understands that teachers can act in private capacities, even while on school grounds and even during school hours. When teachers do so, their freedoms are not to be curtailed, and they are not to be punished."

After the June 27 Supreme Court ruling was announced, ERLC Acting President Brent Leatherwood called the decision "rightly determined."

"As any Christian knows, our faith is deeply personal and rightly shapes

every aspect of our lives. We live out our faith in any number of ways, both privately and publicly. Today's case centered on the latter, and the Supreme Court rightly determined that an individual employed by a school does not forfeit his or her constitutional right to free expression simply by entering 'the schoolhouse gate' or, as it were in this case, the field of play.

"Moreover, today's decision reaffirms another aspect of constitutional law: our First Amendment rights travel together. We, and many others, have long held that religious liberty is our nation's first freedom and that it bolsters and strengthens other foundational rights. The court today strengthened this perspective by writing that the clauses of free expression, establishment and free speech are all complementary. If it were not already clear enough, this court views religious liberty as a bedrock right in our free republic."

'Pressured to participate'

The Baptist Joint Committee for Religious Liberty filed a friend-of-the court [brief](#) in support of the school district. It focused on protecting the religious freedom of students "from the press of government religious speech that government actors have attempted to recharacterize as private."

The brief—jointly filed by the BJC along with the American Jewish Committee, Evangelical Lutheran Church in America and the General Synod of the United Church of Christ—asserted Kennedy was acting as a government employee who only had access to the 50-yard line of a football field because of his job.

The BJC brief also noted multiple parents complained their sons felt compelled to participate in the coach's post-game, on-field prayers, even though they did not want to take part and their parents did not want them to participate.



Holly Hollman

Holly Hollman, BJC general counsel, asserted the court's June 27 ruling opens the door to public school students being pressured to participate in religious exercises.

"Today's Supreme Court ruling undermines religious freedom in public schools by holding that school officials must accommodate a public school teacher's religious exercise at a school event. The decision flies in the face of decades of decisions that have allowed students to enjoy their religious freedom rights without fear of school-sponsored religious practices," Hollman said.

"This court pays lip service to religious freedom but throws out any concern about avoiding government pressure on students. Students should not have to worry about whether their religious beliefs will be in or out of favor with their teachers, coaches and administrators, much less be pressured to participate in religious exercises at school.

"While the Supreme Court continues to erode the separation of church and state, public school districts should continue to ensure they protect all students from coercion and religious discrimination. Public schools serve diverse populations, and school officials are properly prohibited from encouraging or discouraging religious activity when acting in their official government capacities."