

LOHS Harlan Case Oral Argument Submission – Grace, Tyanin

Lake Oswego High School,

Brief Respondent 2017,

Grace Reily-Simmons and Tyanin Opdahl

Supreme Court of the United States

Trinity Lutheran Church of Columbia, Inc,

Petitioner,

v.

Pauley,

Respondent.

Brief in Support of Respondent

Grace Reily-Simmons

Tyanin Opdahl

<https://www.youtube.com/watch?v=pOOaD8Gnj4Q>

TABLE OF AUTHORITIES.....

SUMMARY OF ARGUMENT.....

ARGUMENT.....

1. SEPARATION OF CHURCH AND STATE

2. THE FIRST AMENDMENT ESTABLISHMENT CLAUSE

3. PRECEDENTS SET FROM PREVIOUS CASES

CONCLUSION.....

..

The First Amendment

Locke v. Davey (2004)

Lamb Chapel v. Center Moriches Union Free school District (1993)

The Fourteenth Amendment

Letter from Thomas Jefferson, U.S. President (1802)

Rosenberger v. Rector and Visitors of the University of Virginia (1995)

Missouri State Constitution, Article 1, Section 7 (1820)

Summary of Argument

Withholding funding for new playground resources, for a playground associated with a church, is not in violation of the free exercise clause. However to fund said, playground would violate the perimeters of the first amendment establishment clause, forfeiting the

state's effort to stay neutral. The Missouri state constitution accurately states in Article I, § 7, "no money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, section or denomination of religion." under this assumption the decision made by the both the district and the circuit court should remain upheld. In *Rosenberger v. Rector and Visitors of the University of Virginia* (1995) the court ruled "discrimination was justified by the necessity of complying with the establishment clause"

Argument

1. SEPARATION OF CHURCH AND STATE

Since the creation of government, our founding fathers have made it clear that there needs to be a separation between government and religion. Thomas Jefferson, in a series of letters wrote, "the whole American people which declared that their legislature should "make no law respecting an establishment of religion, or prohibiting the free exercise thereof," thus building a wall of separation between Church & State" (Jan 1, 1802).

This law is upheld locally through the Missouri Constitution. However, this clause is in violation when Trinity Lutheran Church's The Learning Center requested for funds to build a playground. As seen in Missouri's Constitution, this request is in direct violation because, "no money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, section or denomination of religion" (Article I, Section 7).

2. THE FIRST AMENDMENT ESTABLISHMENT CLAUSE

The reason The Learning Center is considered the equivalent of a denomination of a religion is due to how the Trinity integrates daily religious instruction into its programs. Because of The Learning Center's explicit and clear promotion of Trinity Lutheran Church ideals and beliefs, the preschool is an extension of the church. This places the preschool in direct violation of the US and Missouri Constitutions, and the Establishment Clause.

Patrick Henry, a lawyer and politician of the American revolutionary period, once said "The Constitution is not an instrument for the government to restrain the people, it is an instrument for the people to restrain the government." by forcing the Missouri to fund the playground, expands the reach of the government.

III. PRECEDENTS SET PREVIOUSLY

The decision held in *Locke v Davey* 540 us 712. (2004) allows a precedent for coming to a decision on the issue here. In the case they rule that the state does not violate the free exercise clause when they refuse to fund students who go into theology majors for their schooling. This provides a set ruling for the current case that “such an exclusion from otherwise inclusive program does not violate the free exercise clause” (*Locke v Davey*). So, to rule against Trinity Lutheran Church would not violate the First Amendment’s free exercise clause due to not being particularly exclusionary towards The Learning Center.

Conclusion

The Establishment Clause would not be upheld with Trinity Lutheran Church’s desires. It would go against the framers of the constitution original intention, by mixing church and state, causing unneeded and unwanted animosity between the community as a whole. Even though The Learning Center is open to all regardless of faith, because of how it integrates religious doctrine into its daily teachings it is considered an extension of Trinity Lutheran Church and should be treated as such. Because of the government’s exclusion of all church funding if it progresses church agenda, the Missouri Department of Natural Resources is not violating the free exercise clause or prohibiting the Trinity Lutheran Church in any way or form.

© 2021 The Harlan Institute. All rights reserved.