

Federal Court Vindicates 'Choose Life' License Plate

New York violated the First Amendment when it rejected a pro-adoption group's application to sponsor a "Choose Life" specialty license plate as part of a state program. So says a federal court.

The New York DMV rejected The Children First Foundation's (CFF) license plate design, which featured a crayon drawing of a yellow sun behind the faces of two smiling children. The DMV claimed too many people would be offended by the words "Choose Life" in the design.

Alliance Defense Fund took exception to that stance. ADF attorneys filed *The Children First Foundation v. Martinez* with the U.S. District Court for the Northern District of New York in August 2004. More than seven years later, the pro-adoption group has been vindicated.

"Pro-adoption organizations have the right to a specialty license plate on the same terms as any other organization, and the court's decision affirms that," says ADF Senior Legal Counsel Jeff Shafer. "The state is not authorized to censor The Children First Foundation for its life-affirming viewpoint, but it has gotten away with doing so for 10 years now since the application was first submitted."

The court issued an order for the state to approve the plate application but placed the order on hold until any appeals are completed. In its ruling, the court said it is undisputed that CFF complied with the requirements for entry into the program

"As this court has found, the sole basis for [the] defendants' denial of CFF's license plate application was viewpoint discrimination," the court wrote. "Accordingly, the court finds that defendants' restriction was both discrimination

based on viewpoint and unreasonable ...”

The court also found that “New York has run afoul of the First Amendment by giving the Commissioner unbridled discretion to engage in viewpoint discrimination.”

ADF represented The Children First Foundation in a similar lawsuit in New Jersey. In that case, the state eventually agreed to approve the “Choose Life” plate after the foundation won reinstatement of its lawsuit at the U.S. Court of Appeals for the 3rd Circuit.