

Public Meeting Prayer Ban Upheld by North Carolina Court

✖ In a 2-1 decision, the U.S. Court of Appeals for the 4th Circuit on Friday upheld a district court's ban on prayers by clergy that may mention a particular deity prior to public meetings in Forsyth County, N.C.

The Alliance Defense Fund, a legal alliance of Christian attorneys and like-minded organizations defending the right of people to freely live out their faith, is representing the Forsyth County Board of Commissioners. ADF attorneys point out that the decision of the lawsuit *Joyner v. Forsyth County* is in conflict with other federal court decisions and out of step with the history of invocations in America.

"America's founders opened public meetings with prayer. There's no reason that today's public officials should be forced to censor the prayers of those invited to offer them simply because secularist groups don't like people praying according to their own conscience," said Mike Johnson, an ADF-allied attorney and founding dean of Louisiana College's Pressler School of Law, who argued before the 4th Circuit in May. "The legal team will confer

with the
county about the process of appealing [Friday's] decision."

Judge Paul V. Niemeyer strongly dissented from the ruling, writing
that "the majority has dared to step in and regulate the language
of prayer—the sacred dialogue between humankind and God. Such a
decision treats prayer agnostically; reduces it to civil nicety;
hardly accommodates the Supreme Court's jurisprudence in *Marsh v. Chambers* ... and creates a circuit split [with the 11th Circuit]. ... Most frightfully, it will require secular legislative
and judicial bodies to evaluate and parse particular religious prayers under an array of criteria.

"I respectfully submit that we must maintain a sacred respect of
each religion, and when a group of citizens comes together, as does
the Forsyth County Board of Commissioners, and manifests that sacred
respect—*allowing the prayers of each to be spoken in the religion's own voice*—we must be glad to let it be."

Other federal courts have upheld the ADF model invocation policy
on which the county's policy is based. The most recent example is a
July 11 decision that upheld the invocation policy of Lancaster,
Calif. Each of the four other federal courts to review similar invocation policies since 2009 has found them to be constitutional.

"Finding the county's policy unconstitutional is odd not only

in light of current cases, but also in light of the many prayers at public meetings throughout American history that have been uttered consistent with the prayer-giver's conscience and without judicial 'tests' and government rules," said ADF Senior Counsel Brett Harvey.

Attorneys with the American Civil Liberties Union and Americans United for Separation of Church and State sued the Forsyth County Commission on behalf of three individuals in March 2007 because it "does not have a policy which discourages or prohibits those whom [the board] has invited to deliver prayers from including references to Jesus Christ, or any other sectarian deity, as part of their prayers."

Harvey argues: "In other words, the ACLU and AU are advocating censorship."