

Will Believers Be Forced to Stop Praying in Jury Box?

This is a case involving fundamentals—fundamental tenets of what it means to be a U.S. citizen and fundamental beliefs of Christians and many other religious faiths.

Fundamental to American civics is the right of citizens to vote, and often with that right comes the responsibility of serving on a jury (a critical protection we are all afforded is having a jury of our peers). Fundamental to Christianity and many faiths is prayer—communing between man and God. But in this case, a juror was disqualified over prayer.

The American Center for Law and Justice just filed an amicus curiae brief in a federal court of appeals defending the right of American citizens to exercise their religious freedom—in this case, prayer—while serving as a juror.

In 2017, a United States district court in Florida removed and replaced a juror because of his religious beliefs. During the course of jury deliberations, the juror (Juror 13) mentioned his prayer for guidance about the case to his fellow jurors. His statements were misconstrued by a fellow juror, who reported his statements, leading the court to question him.

While the juror told the court repeatedly that he had no religious or moral beliefs that would prevent him from rendering a proper verdict, the court ultimately decided to remove and replace the juror, finding:

“beyond a reasonable doubt” that there was “no substantial possibility” that Juror 13 would be “able to base his decision only on the evidence and the law as the court gave it to him in the instructions” ... Because, by definition, it’s not that the person is praying for guidance so that the person can be enlightened, it’s that the higher being—or the

Holy Spirit is directing or telling the person what disposition of the charges should be made.

The court's reasoning clearly shows a complete misunderstanding of the Christian faith and belief in prayer. But the court should not have reached such a conclusion at all. Nonetheless, the court dismissed the juror, and on appeal, a panel of judges on the Eleventh Circuit Court of Appeals upheld the district court's erroneous decision, in spite of a well-written dissent by Chief Judge William Pryor. The defendant in the case requested and was granted an *en banc* hearing of the Eleventh Circuit court. This means that the case will be heard before the Eleventh Circuit's entire bench comprised of 12 judges.

Our brief details for the *en banc* court several reasons that the panel majority and lower court's decisions violate constitutionally protected rights, and why they should be overturned, as Chief Judge Pryor explained in his dissent.

As we state in our brief:

The protections afforded religious belief and the exercise thereof by the First Amendment certainly extend to a juror exercising his religious belief in the power of prayer for wisdom and insight while fulfilling his civic duty and right as juror ...

A decision like this, one with these kinds of far-reaching implications, cannot and must not be taken lightly or made in a vacuum. It tears at the foundation of our society and feeds the divisiveness of our times. The idea that receiving an answer to prayer could disqualify a person from civic duty flies in the very face of the ideas and principles our founders enshrined in our nation's founding documents. The idea that actually believing in the God in Whom we all proclaim to trust is deeply problematic and fundamentally un-American.

To the contrary, our founders did not, and the vast majority of people today do not, believe that it is disqualifying when politicians or other public figures invoke God's guidance. For example, the Rev. Martin Luther King Jr. once told an audience that "It seemed as though I could hear the quiet assurance of an inner voice saying: 'Stand up for justice, stand up for truth; and God will be at your side forever.' Almost at once my fears began to go. My uncertainty disappeared. I was ready to face anything." Amicus curiae finds it hard to believe that in this case, in which MLK said something substantially similar about his communications to and from the divine, he would have been subjected to this same scrutiny and dismissed as somehow less able to participate in his civic duties.

As we point out to the court, if the panel majority's decision were allowed to stand, "everyone (would be) free to pray for God to help him or her reach the right decision, (but) if a person believes that God answers these prayers then they are no longer fit to serve." This is clearly not an interpretation of free religious exercise that meets constitutional muster.

In fact, the panel's holding is deeply inconsistent with settled First Amendment law as expressed in Supreme Court precedent. Moreover, the panel's decision effectively creates a flawed and even dangerous precedent that may lead to the disenfranchisement and exclusion of millions of citizens from a monumentally important institution in the United States' system of government—and the carefully protected checks on that government—the jury.

As this case develops, we will bring you updates on our continued efforts to fight against decisions such as this one that erode First Amendment protections of religious freedom. If the panel majority and lower court's rationale are not corrected, Americans who pray—and who truly believe in the power of their prayer—may be removed from serving on juries. This is outrageous and precisely why the ACLJ engaged this critical case. As we said in our brief:

Americans pray. And Americans believe God answers their prayers. Amicus curiae respectfully urge this court not to exclude those Americans from serving on our juries.

Stand with us as we stand up for praying Americans. {eoa}

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