

Appeals Court Bans Church From Renting School Building

✖ In a decision that runs contrary to established U.S. Supreme Court precedent, the U.S. Court of Appeals for the 2nd Circuit ruled 2-1 on Thursday that New York City Public schools can keep churches from renting school facilities for weekend meetings.

It's a long-fought battle between the Bronx Household of Faith and the Board of Education of the city of New York—a 16-year battle to be exact. The outcome could cause a negative ripple effect on churches across the country that want to meet at schools on the same terms as other community groups.

The Alliance Defense Fund represents the Bronx church in the case. ADF attorneys intend to appeal the 2nd Circuit's decision to ensure that churches are not tossed out of the schools. An injunction has protected churches for the past nine years.

"Religious groups, including churches, shouldn't be discriminated against simply because they want to rent a public building just like other groups can," says ADF Senior Counsel Jordan Lorence, who argued before the 2nd Circuit in October 2009. "The idea that people of faith may be singled out for discrimination is flagrantly contrary to the U.S. Constitution. The 2nd Circuit greatly erred by not putting an end to the board's continued defiance of the First Amendment. In addition, the U.S. Supreme Court has already definitively ruled that the government must allow religious groups to have the same access that other groups have."

Here's the background: The New York City Department of Education consistently rejected Bronx Household's request to rent a school building for weekend services until a federal

district court issued an injunction prohibiting the department from blocking the church. Department officials appealed, repeating their claim that allowing churches to rent school buildings would be unconstitutional—even though the Supreme Court has ruled otherwise.

In his dissent, Circuit Judge John Walker wrote, “The majority’s formulation of ‘religious worship services,’ including its shoehorning of a supposed Establishment Clause problem, is conveniently tailored to support its arguments, but leaves no doubt that it is ‘religious services’ and ‘worship’ that the Board is targeting for exclusion. The majority’s attempt to differentiate between the conduct of an event, here labeled ‘services,’ and the protected viewpoints expressed during the event is futile because the conduct of ‘services’ is the protected expressive activity of the sort recognized in *Good News Club* and, earlier, in *Widmar*,” which are previous Supreme Court decisions.

“Churches that meet in public school buildings have been a huge benefit to the communities around them,” Lorence says. “It’s very sad when government officials misinterpret the Constitution and attempt to kick such groups out. That is clearly not at all what the authors of the Constitution intended.”