

State Rules for Life With First Amendment Victory

North Carolina can issue specialty license plates with an anti-abortion slogan but reject alternatives supporting abortion rights without running afoul of the U.S. Constitution, a federal appeals court said on Thursday in reversing its earlier opinion.

The 2-1 ruling by the 4th U.S. Circuit Court of Appeals clears the way for the state to offer the “Choose Life” plate approved by its Republican-led legislature in 2011.

The appeals court previously had blocked the anti-abortion plate, ruling the state’s refusal to also offer a plate with an abortion rights slogan such as “Respect Choice” constituted “viewpoint discrimination in violation of the First Amendment.”

But the court reversed itself in light of a U.S. Supreme Court decision last year in a case involving specialty license plates in Texas. Justices ruled Texas had not violated free speech rights by rejecting a proposed license plate featuring the Confederate flag because state-issued plates are government speech, not private speech.

Government speech gives officials more leeway to determine what messages they want to approve.

Noting the similarities of the two states’ programs, the appeals court on Thursday said, “We now conclude that specialty license plates issued under North Carolina’s program amount to government speech and that North Carolina is therefore free to reject license plate designs that convey messages with which it disagrees.” {eo}