



News Release

For Immediate Release: 7.12.21
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Federal Court Sides with Texas Judge’s Chaplain-led Invocations Prior to Texas State Court Proceedings

Fifth Circuit issues ruling that allows prayers while lawsuit against Judge proceeds

Montgomery County, TX—The U.S. Court of Appeals for the Fifth Circuit last week issued a stay permitting First Liberty Institute client Judge Wayne Mack, a Montgomery County Justice of the Peace, to continue allowing chaplains to offer invocations at the start of his court sessions while a lawsuit against him is considered by the courts.

You can read the court’s decision [here](#).

“Judge Mack is grateful that the Fifth Circuit allowed him to continue following our nation’s long history and tradition of opening court proceedings with prayer,” said Justin Butterfield, Deputy General Counsel to First Liberty. “We agree with the Fifth Circuit’s conclusion that prohibiting the prayers was wrong. It’s time for the Freedom From Religion Foundation and the State Commission on Judicial Conduct to end their harassment of Judge Mack.”

“I am so very grateful that we have our chaplaincy program in place to assist with helping families in our county through terrible tragedies and to provide a moment of perspective as our court begins proceedings,” said Judge Mack. “I am pleased that this program can continue while we are presenting our case to the 5th Circuit.”

In its stay, the Fifth Circuit stated Judge Mack “has made a strong showing that the district court erred” in siding with Freedom From Religion Foundation in its lawsuit against the Montgomery County Judge. The court continued: “...as to FFRF’s individual-capacity claim, that too is likely to fail. The Supreme Court has held that our Nation’s history and tradition allow legislatures to use tax dollars to pay for chaplains who perform sectarian prayers before sessions. If anything, Judge Mack’s chaplaincy program raises fewer questions under the Establishment Clause because it uses zero tax dollars and operates on a volunteer basis. And the Supreme Court recently reaffirmed *Marsh* in upholding a legislature’s unpaid, volunteer chaplaincy program comprised almost exclusively of Christians.”

Mack, whose duties include serving as a coroner for Montgomery County, created a volunteer chaplaincy program to aid members of the community while he conducts independent death investigations. In his role as Justice of the Peace, Judge Mack allows the multi-faith, volunteer chaplains to open his courtroom ceremonies with a brief invocation and the pledge of allegiance in order to honor their service. The chaplaincy program includes leaders from multiple faiths, including Christian, Sunni Muslim, Buddhist, and Hindu religious leaders.

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About First Liberty Institute

[First Liberty Institute](#) is the largest legal organization in the nation dedicated exclusively to defending religious freedom for all Americans.

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