

Court upholds ruling against council member's Jesus-specific prayers: Sandra Day O'Connor weighs in

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In a decision hailed by supporters as a victory for the separation of church and state, a federal appeals court upheld a Fredericksburg, Virginia, policy that restricts praying “in Jesus’ name” at city council meetings.

City council member Hashmel Turner, who is a part-time Baptist minister, claimed that requiring all prayers to be nondenominational violated his First Amendment rights to free speech and free exercise of religion.

With retired Supreme Court justice Sandra Day O’Connor writing the ruling, a three-judge panel for the Fourth U.S. Circuit Court of Appeals on July 23 upheld a lower court’s 2006 decision, saying that Turner’s prayers constituted “government speech” rather than protected private speech.

“Turner . . . remains free to pray on his own behalf, in nongovernmental endeavors, in the manner dictated by his conscience,” wrote O’Connor, who was sitting on the appeals court panel by special appointment. “The council’s decision to provide only nonsectarian legislative prayers places it squarely within the range of conduct permitted” by U.S. Supreme Court precedent on legislative prayer, O’Connor said. “The restriction that prayers be nonsectarian in nature is designed to make the prayers accessible to people who come from a variety of backgrounds, not to exclude or disparage a particular faith.”

The policy had been implemented under pressure from the American Civil Liberties Union, which took action after Turner repeatedly invoked Jesus Christ in his prayers.

Representatives for Turner warned that O’Connor’s opinion could set a slippery judicial precedent. “Can a president be sworn in on a Bible now? It’s an easy leap,” said John Whitehead, who argued Turner’s case on behalf of the conservative

Rutherford Institute. Whitehead called the city's actions a reflection of a nationwide movement to limit private speech on government property.

Judith E. Schaeffer, legal director for the People for the American Way Foundation and co-counsel for the city, called Turner's argument "meritless." She added: "What the court held . . . was that the City Council has the right to determine for itself to adopt a policy of inclusion rather than exclusion." -*Religion News Service, Associated Baptist Press*