

# High Court rules against sectarian park monument: Summum of Salt Lake City

News in the [March 24, 2009](#) issue

The U.S. Supreme Court has ruled that a city park in Utah does not have to include a monument sought by a small religious sect even though it already features a Ten Commandments monument.

Summum, a Salt Lake City-based group, had argued that officials in Pleasant Grove City, Utah, violated its free speech rights when they did not permit a proposed monument reflecting the group's beliefs.

The "placement of a permanent monument in a public park is best viewed as a form of government speech," wrote Justice Samuel Alito in the unanimous opinion, "and is therefore not subject to scrutiny under the Free Speech Clause" of the First Amendment.

Jay Sekulow, the attorney who argued the case for the city, cheered the February 25 decision as a "great victory" for municipalities. He had argued that a decision against the city would have serious ramifications, perhaps forcing permission for a "Statue of Tyranny" to be erected near the Statue of Liberty.

Alito said that though Summum had "derided" such fears, they were "well founded." A town with a war memorial could have been forced to erect a monument questioning why veterans had fought in that war, Alito reasoned.

"This would have . . . changed the way local government landscaped their parks and communicated their messages," said Sekulow, chief counsel of the American Center for Law and Justice.

Although the Supreme Court case centered on the free speech clause of the First Amendment, the establishment clause loomed in the background. For instance, Americans United for Separation of Church and State said the court made the right

decision but urged that all permanent religious symbols be removed from government-owned parks.

“Government has no business erecting, maintaining or promoting religious symbols or codes,” said Barry W. Lynn, executive director of Americans United. “The answer in this case is to remove the Ten Commandments from the public park, not compound the problem by adding more sectarian material.”

Alito noted that his decision in the *Summum* case does not imply that there are no restrictions on government speech. “For example, government speech must comport with the establishment clause,” he said.

Justice David Souter said the connections between the establishment clause and government speech have not yet been figured out. He said it would be “in the interest of a careful government” to have more than one monument to avoid an appearance of establishing religion.

Justice Antonin Scalia, joined by Justice Clarence Thomas, said Pleasant Grove City has no need to be concerned that it has violated any portion of the First Amendment. The Ten Commandments monument in the city’s park is, he said, “virtually identical” to the one the court ruled in 2005 could remain on the Texas State Capitol grounds.

“The city ought not fear that today’s victory has propelled it from the Free Speech Clause frying pan into the Establishment Clause fire,” Scalia wrote. “The city can safely exhale.” *-Religion News Service*