

# SOUTHEAST LAW INSTITUTE™

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Dear SLI Supporter:

We hope you have found the beginning of summer enjoyable. Thus far, the mild, wet weather has been quite a relief from what we have experienced in past years. Continuing droughts in some parts of the country certainly diminish productivity and the quality of life.

We urge you this summer not to forget about SLI. We are already experiencing some drought conditions with financial giving. This is not unusual for publicly supported non-profit organizations, but like the weather, it certainly hinders our ability to give service. Please notice the return card and the many ways you can help. We sincerely appreciate each of you who have sent donations for the newsletter and other necessities. Also, notice our new address and phone number.

There are so many opportunities for SLI. Sometimes we look at events as being unfortunate problems, since they are usually someone in need of help on a religious liberty, parental right or similar issue. On the other hand, we appreciate these events as opportunities to be of assistance and achieve positive solutions to those problems.

This month's Educational Memo reports on two significant religious liberty victories. Religious liberty is so important to the very fabric of our being that whenever an issue arises, we always want to be prepared to address it. When we have adequately responded to such issues, we have favorable outcomes such as we discuss this month.

While these two cases get national publicity, there are myriad cases which do not, but for the persons involved they are just as significant. We have had a significant number of calls recently involving local people with real problems. We have provided advice and hopefully none will materialize into headline cases.

With your help, SLI can continue to be involved. We are thankful for your help and for the opportunities to serve. Please continue to pray for our efforts. We hope you have a wonderful summer and, again, we ask you to remember our financial needs.

Yours Very Truly,

A. Eric Johnston

AEJ/dcw

**EDUCATIONAL MEMO FROM  
THE SOUTHEAST LAW INSTITUTE**

**To: Southeast Law Institute Supporters**

**From:** A. Eric Johnston

**Date: July, 2001**

**Re: U. S. Supreme Court Makes Two Significant Religion Rulings**

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**INTRODUCTION**

Within two weeks of each other, the United States Supreme Court has made two important rulings in religion cases. Both cases involve religious freedom and religious speech in public school cases. Opponents always say any religious activity at a public school is a prohibited establishment of religion. More often than not, federal courts agree which is to the detriment of the other first amendment clause that protects free exercise of religion and religious speech.

***GOOD NEWS CLUB V. MILFORD CENTRAL SCHOOL***

The Milford Central School had a policy which permitted after school meetings of clubs on school premises if they were (1) unrelated to school activities, (2) for the welfare of the community, and (3) open for all students to participate. The Good News Club was a club for elementary school children which taught moral lessons from the Christian perspective. The school refused the right of the club to meet, because it was a "religious" club.

According to the Court of Appeals, "reliance on Christian principles taints moral and character instruction in a way that other foundations for thought or viewpoints do not." Therefore, this club was a prohibited "establishment" of religion. The United States Supreme Court disagreed. Justice Thomas wrote the court's opinion finding the club's position to be "viewpoint discrimination". In other words, it is discrimination to permit talk about morals, but not allow explanation of why you feel or believe the way you do. The wrongful policy of the school was best summed up by Justice Scalia:

" The Club. . . may only discuss morals in character and cannot give its reasons why they should be fostered - - because God wants and expects it, because it will make the Club members 'saintly' people and because it emulates Jesus Christ. The Club may not, in other words, independently discuss the religious premise on which its views are based - - that God exists and his assistance is necessary to morality."

This policy was held unconstitutional. It is a substantial victory for public school children, including elementary grades. For several years there had been disparity among court opinions, most of which prohibited religious type clubs to meet. If public schools allow clubs to meet after school, they cannot preclude religious clubs.

***CHANDLER V. SIEGELMAN***

In our January and February, 2001 Educational Memos, we discussed religious freedom in Alabama. The culmination of almost a decade's long effort was the case of *Chandler v. Siegelman*. The United States

Supreme Court recently upheld the final decision of the 11<sup>th</sup> Circuit Court of Appeals which was that students at public schools have a right to pray and engage in devotional or religious speech on school premises and at school events, as long as the activities are genuinely *student-initiated*.

The ACLU would not give up. It asked for a further rehearing in the Court of Appeals. When that was denied, it asked for the Supreme Court to again review the case. On June 18, 2001, the United States Supreme Court let stand the Court of Appeals ruling.

District Court Judge Ira Dement had originally issued a very restrictive injunction which virtually eliminated student-initiated religious speech. At last, the instructions are clear that the injunction will not stand. While there is still some possibility for the refinement of his order, what is clear is that students in the State of Alabama have protected religious and speech rights.

### **CONCLUSION**

The meaning of these two cases is that elementary and secondary public schools' students have a right to engage in religious speech. At last, there are two court opinions which avoid the restrictive establishment clause rulings and find the true meaning of the free exercise clause. Doubtless, there will be more litigation over these issues. Our hope is that these cases will be instrumental in leading the way to a full and proper appreciation of free exercise of religion for students in public schools.