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Commandments rulings: Mixed message or sensible?

Supreme Court upholds Texas Capitol marker, rejects Kentucky plaques

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In a split decision Monday over Ten Commandments displays on public ground, the U.S. Supreme Court carved out a middle ground that recognizes religion's place in the public arena while making clear the government should not lend its seal of approval to a particular faith.

The court, in two 5-4 rulings, held that governments can display the Ten Commandments but only in educational or historical contexts that do not amount to government endorsement of religion.

The rulings pleased neither activists on the right nor the left, but they did reflect the nation's sharp division over the place of religion in the public square.

"This shows the court reflects what's going on in society," said Philip Goff, director of the Center for the Study of Religion and American Culture at Indiana University-Purdue University Indianapolis. "They really are uncertain what should be the legal place of religion in the public arena."

In rejecting Ten Commandments plaques at two Kentucky courthouses and upholding a granite monument on the Texas Capitol grounds, the court delivered what some called a confusing mixed message and others say is a sensible middle course.

James Dobson, chairman of Colorado Springs-based Focus on the Family Action, said in a statement that the court "has failed to decide whether it will stand up for religious freedom of expression, or if it will allow liberal special interests to banish God from the public square."

On the other side of the ideological spectrum, the Rev. Welton Gaddy of the Interfaith Alliance said the wall of separation between religion and government remains "intact but greatly weakened" by the split ruling. The court's support for the display in Texas of a Protestant version of the Ten Commandments "threatens the protection of religious freedom for minority religions," Gaddy said in a statement.

The decisions will not resolve this chapter of the culture wars because the court did not draw a bright line about what is allowable, instead suggesting a case-by-case analysis based on the motivation behind the displays, said Alan Chen, a professor at the Sturm College of Law at the University of Denver.

"What the Supreme Court has done is walk a fine line and really recognized the tensions between efforts by some people to celebrate their religion and the concerns of others about the imposition of religious beliefs upon them," Chen said.

That lack of clear guidance renders the two rulings confusing at best and will likely lead to legal challenges to displays around the country, said Carrie Gordon Earll, a senior policy analyst for Focus on the Family.

"If it's a middle ground, it's a very muddy one," she said. "The court had one job to do here - to give guidance - and didn't do it."

Kathleen Flake, a professor of American religion at Vanderbilt University, contends that the rulings send a balanced, moderate message.

"I think what they're saying is you can't use the authority of the state in the culture wars," Flake said.

The Kentucky decision, written by Justice David Souter, is a rebuke to those who claim that the United States is a Christian country and therefore the government may back a Christian message, said Marci Hamilton, a law professor at Yeshiva University in New York and author of *God vs. the Gavel: Religion and the Rule of Law*.

"To preclude the government from backing a particular religious message does not begin to remove either religion's political power or its pronounced presence in the public square," she said.

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