

Bible message kept out of courthouse

High court rules in Georgia case

ASSOCIATED PRESS

The Supreme Court, which 14 years ago banned the Ten Commandments from classroom walls in public schools, yesterday refused to let them and other religious writings be posted in a county courthouse.

The justices, without comment, let stand rulings that forced officials in Cobb County, Ga., to remove from their courthouse complex a 3-by-5-foot framed panel containing the Ten Commandments and teachings of Jesus.

In a bold appeal, county officials had urged the justices to allow greater accommodation of religion in public life.

"The judicial branch of our government has been allowed to coerce the American people into an amoral straitjacket which has begun to tear our society apart at the seams," the appeal said. "No society, nor any individual, can navigate the stormy seas of life for very long without a spiritual or moral compass and rudder. In this regard, religion serves a secular purpose."

The panel was donated to Cobb County, and until 1967 it hung outside the original county courthouse. When that building was destroyed, the panel was moved inside the Cobb County State Court Building in Marietta. It hung for 27 years on a wall across the hall from traffic court.

Bruce Harvey, a criminal defense lawyer, and James Cunningham, a county resident, sued in 1992 to get the panel removed.

Their lawsuit said the panel violated the constitutionally required separation between government and religion.

A federal trial judge and the 11th U.S. Circuit Court of Appeals agreed and ordered the county to

remove the panel.

The lower courts relied heavily on a 1980 Supreme Court decision that struck down a Kentucky law requiring the posting of the Ten Commandments in public school classrooms.

In their appeal, Cobb County officials said the 1980 ruling shouldn't apply in this case because it involved government conduct "in the context of a compelled educational setting."

The appeal said the lower-court rulings are "tantamount to calling for removal of all references to the Ten Commandments or God from U.S. currency and from public buildings."

But U.S. District Judge Marvin Shoob had ruled that the Ten Commandments panel could remain in the courthouse if officials were willing to make it part of a larger educational display outlining various influences on modern law.

In other action yesterday, the justices:

- Gave public employers added protection from lawsuits by workers fired for making statements later found to be constitutionally protected speech. The court ruled in an Illinois case that public employers cannot be forced to pay damages if, at the time of the firing, they reasonably believed the worker was simply being insubordinate.

- Rejected a challenge to a Dallas curfew called unconstitutional by some teen-agers and their parents. The court, without comment, let stand a ruling that said the curfew properly is aimed at "protecting juveniles from crimes on the streets."

- Let stand rulings that cited free-speech considerations in throwing out a lawsuit against TV host Phil Donahue and the mother of a rape victim who told her story on his show. The suit had been filed by the victim, who gave birth at age 11 after being raped by her stepfather.

Pro-lifers' exclusion from fair OK'd

By Mary Deibel
SCRIPPS HOWARD NEWS SERVICE

The Supreme Court yesterday left standing a Kentucky court ruling that an anti-abortion group does not have a constitutional right to set up a booth at a privately sponsored municipal fair.

The court, over one dissent, declined to hear a challenge to a Kentucky Supreme Court ruling that Downtown Frankfort Inc. did not violate the First Amendment when it made a "content-neutral" decision to exclude all abortion advocacy groups from the Great Pumpkin Festival in October 1990.

Only Justice Sandra Day O'Connor voted to consider the case, saying the restriction is not "content-neutral" because "it is indisputably justified with reference to the controversial content of the speech."

Downtown Frankfort, a private historic preservation group supported by state and local funds and private donations, sponsors the annual festival on the Kentucky capital's block-long St. Clair Mall, where vendors, civic groups and other organizations set up sales and informational booths.

Capital Area Right to Life challenged Downtown Frankfort's denial of a booth at the 1990 festival for violating the right of its members to free speech on a city mall — a traditional public forum.

The group had had a booth at the 1989 festival, but Downtown Frankfort officials got complaints from other participants and from festival attendees that it was inappropriate to have advocacy groups participating in a family-oriented fair. Parents

also objected that Right to Life members passed out plastic fetuses to children.

When Capital Area Right to Life applied for a booth in 1990, Downtown Frankfort officials turned it down, and also denied requests from the Kentucky Organization for Women and the state Religious Coalition for Abortion Rights, on the grounds that activities of advocacy groups on either side of the abortion debate weren't in keeping with the festival's Halloween and fall harvest themes.

Downtown Frankfort President John Gray notified Right to Life officials that "events and booths are meant to be for fun and entertainment" and that his group "reserves the right to deny participation" to any organization or merchandiser "deemed inappropriate to that theme and purpose."

Although no state or local funds go toward the festival, and state and local officials were not involved in the decision to turn down advocacy groups, Capital Area Right to Life sued Downtown Frankfort and Mr. Gray, claiming government officials are liable for violations of citizen rights.

The judge dismissed the suit on the grounds that private parties are not subject to suit under the law in question. The state appeals court agreed.

The Kentucky Supreme Court ruled that Downtown Frankfort and its board could indeed be sued, but it concluded that the group's decision to maintain the Great Pumpkin Festival's "content-neutral" theme was a restriction on speech permitted by U.S. Supreme Court precedent.