

2016 Law & Religion Moot Court Competition



Venice, Italy
9-11 March 2016

2016 Case

For the American leg of the Competition:

Magna Carta High School, a public

For the European leg of the Competition:

Magna Carta, a state

... High school, has had a prayer by a student as part of its graduation ceremony for the past 50 years. Until 2001, the prayer was given by the student graduation speaker, chosen by the school on the basis of academic merit, ability to speak in public settings, and good character. The school let the student know that prayer was expected as part of the student's speech, which the school vetted beforehand. All the prayers were Christian; the majority was non-denominational; a few prayers clearly referred to the Lutheran tradition, such as by including quotations from Martin Luther and Philip Melancthon. The high school is located in a small county, in which the vast majority of families, and students, are Lutherans. Indeed, the county has no non-Christian place of worship.

For the American leg of the Competition:

In 2001, in light of the Supreme Court's decisions in *Lee v. Weisman*, 505 U.S. 577 (1992), and *Santa Fe Independent School Dist. v. Doe*, 530 U.S. 290 (2000),

For the European leg of the Competition:

New Prussia is the state in which the case takes place. New Prussia used to be officially Lutheran until the early 1990s, when the new Constitution affirmed equality among religions, although acknowledging the historical Lutheran legacy of the national society.

In 2001, after the State (New Prussia) joined the Council of Europe, and in order to comply with the ECtHR's case law on state neutrality and impartiality,

...

the school altered its policy. It still selects the student graduation speaker on the basis of the criteria stated above, and it still reviews the speech to make sure it contains nothing offensive to students, faculty members, or guests—for example, no personal insults or profanity. Last year, in fact, the school required a student to revise her speech to take out critical remarks about other students. But the selection process no longer indicates that the student is expected to say a prayer as part of his/her speech.

Nonetheless, from 2001 to now, every student graduation speech in fact has contained a prayer, and each prayer has been Christian, mainly non-denominational, but occasionally a student has referred explicitly to the Lutheran tradition.

In 2015, Tom and Julie Langton attended the graduation ceremony for their daughter, Ayn, at Magna Carta. The Langtons are members of the Secular Humanist League and say that the prayer at Ayn's ceremony offended them. Two younger Langton children, Stephen and John, attend Magna Carta and will graduate in the near future: they, and their parents, object to their being exposed to a prayer at their upcoming graduations.

For the American leg:

The Langtons sued the school in federal court, seeking a permanent injunction against the school's policy. The family argued that the policy violates the Establishment Clause of the US Constitution. Drawing on *Town of Greece v. Galloway*, 572 U.S. ____ (2014) among other cases, the district and the appeal courts dismissed the claim.

The Supreme Court granted certiorari on the following question: "Does the prayer at Magna Carta's graduation ceremony violate the Establishment Clause?"

For the European leg:

The state constitution commands that public institutions behave neutrally with respect to religion. Domestic courts, however, found that, given that

- the prayer was said by a student individually and voluntarily
- the practice had become customary
- the practice paralleled the socially overwhelming religion

the prayer didn't reflect a public endorsement of a specific religion; the family was aware from the beginning that such an event could take place and therefore they could have left the ceremony when the student was called to speak.

Therefore domestic courts found no violation of neutrality clause;

Then the family applied before the ECtHR under Art. nos. 9 and 14, and Additional Protocol no. 1, Art. no. 2, of the Convention. This court's first decision relied on *Lautsi v. Italy* (ECtHR 2011) and found no violation of the Convention. The family appealed before the Grand Chamber.