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Supreme Court Holds School Board Cannot Prohibit Coach from Praying on the Football Field

By Susan Keating Anderson & Adrienne Kirshner

The Supreme Court today held a public school football coach can openly pray on the football field and have students participate. *Kennedy v. Bremerton School Dist*., concerned an assistant football coach at a public high school. For eight years, the coach routinely offered prayers after games, on the 50-yard line, with students often joining him. An opposing coach told the high school principal he thought it was "pretty cool" that the coach was permitted to pray on the field. After this, the school board instructed the coach not to pray if it interfered with his duties or involved students. The coach argued that he sought only to offer a brief, silent and solitary prayer, similar to saying grace in a school cafeteria, while the school board claimed the public nature of the prayer and the coach's role as a leader at the school meant students felt forced to participate.

A school official then recommended the coach's contract not be renewed and the coach did not reapply for the position. The coach sued, arguing that the District's conduct violated both the Free Exercise and Free Speech Clauses of the First Amendment.

In a 6-3 decision written by Justice Neil Gorsuch, the Supreme Court held the coach's prayers, which it described as "a quiet prayer of thanks" while "students were otherwise occupied," amounted to private speech protected by the First Amendment that could not be restricted by the board of education. 597 U.S. _____ (2022) pp. 1-2. The opinion stated students were not required or expected to participate, and rejected concerns of some that students felt coerced to join in the prayer. In a dissenting opinion, Justice Sotomayor disagreed with the majority opinion's characterization of the coach's prayers as "private and quiet" and asserted that the majority opinion ignores the "severe disruption to school events" cause by the coach's conduct and evidence that suggested students felt coerced to participate. 597 U.S. _____ (2022) J. Sotomayor dissent, pp. 1-2.

This decision comes on the heels of the June 21, 2022 Supreme Court's 6-3 decision in *Carson v. Matkin* that held requiring a school be "nonsectarian" to receive state tuition assistance payments violated the Free Exercise Clause of the First Amendment, which protects a citizen's right to practice their religion, and further reflects the Supreme Court's recent inclination to elevate what it interprets to be the free exercise of religion over the tenets of the Establishment Clause of the First Amendment to the United States Constitution, which prohibits the government from acting to establish religious practice.

If you have questions regarding how these recent Supreme Court decisions affect school district employment or operations, please contact any of the listed Roetzel attorneys.

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