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Atheists of Florida, Inc. v. City of Lakeland, Fla.

United States Court of Appeals, Eleventh Circuit - March 26, 2013 - F.3d - 2013 WL 1197772

Court holds that city's practice of allowing clergy to perform invocations at city commission meetings did not violate federal or state establishment clauses; validates city's new procedures for selecting invocation speakers.

Atheist organization brought §1983 action against city and mayor, alleging that practice of allowing religious ministers to perform invocations before city commission meetings violated establishment clauses of First Amendment and Florida Constitution.

The court of appeals held that:

- Defendants' new practices for selecting invocation speakers did not violate establishment clauses;
- Organization's claims related to defendants' former practices for selecting invocation speakers were moot; and
- Defendants' expenditures toward selecting invocation speakers did not violate no-aid provision of Florida's establishment clause.

City commission's selection of speakers to deliver invocation at commission's did not proselytize, advance, or disparage any one faith or belief and did not affiliate city with any discrete faith or belief, and thus did not violate establishment clauses of First Amendment and Florida Constitution. Procedures required commission to update congregations list annually, based on search of local phone books and Internet listings, potential speakers from congregations outside county were included on list if city resident who was member of that congregation requested it, and every congregation on list then received invitation to give invocation at commission meetings.

City commission's expenditure of \$1,200 to \$1,500 per year to arrange for speakers to give invocation before commission meetings did not advance religion, precluding Atheist organization's §1983 claim that commission violated no-aid provision in Establishment Clause of Florida Constitution. Funds merely went to mailing invitations to various religious leaders in community, and no religious group received any pecuniary benefit, either direct or indirect, from those expenditures or received financial assistance from commission for promotion and advancement of its theological views.