

Faculty Work Comprehensive List

10-27-2014

5 U.S. Supreme Court Cases Every Christian Should Be Aware Of

Donald Roth

Dordt College, donald.roth@dordt.edu

Follow this and additional works at: https://digitalcollections.dordt.edu/faculty_work

 Part of the [Christianity Commons](#), and the [Courts Commons](#)

Recommended Citation

Roth, D. (2014). 5 U.S. Supreme Court Cases Every Christian Should Be Aware Of. Retrieved from https://digitalcollections.dordt.edu/faculty_work/73

This Blog Post is brought to you for free and open access by Dordt Digital Collections. It has been accepted for inclusion in Faculty Work Comprehensive List by an authorized administrator of Dordt Digital Collections. For more information, please contact ingrid.mulder@dordt.edu.

5 U.S. Supreme Court Cases Every Christian Should Be Aware Of

Abstract

"What United States Supreme Court cases should Christians be aware of?"

Posting about the five United States Supreme Court cases of which all Christians should be aware from *In All Things* - an online hub committed to the claim that the life, death, and resurrection of Jesus Christ has implications for the entire world.

<http://inallthings.org/supreme-court-cases-christians-should-know-about/>

Keywords

In All Things, U.S. Supreme Court, court cases, Loving v. Virginia, Lee v. Weisman, Employment Division v. Smith, Planned Parenthood v. Casey, Bob Jones University v. United States

Disciplines

Christianity | Courts | Law

Comments

In All Things is a publication of the [Andreas Center for Reformed Scholarship and Service](#) at [Dordt College](#).

5 U.S. Supreme Court Cases Every Christian Should Be Aware Of

 [all in allthings.org/supreme-court-cases-christians-should-know-about/](http://allinallthings.org/supreme-court-cases-christians-should-know-about/)

Donald Roth

I had planned on being a lawyer since I was in junior high, so I fancied myself fairly current on developments in the legal world when I graduated from college. However, in law school, I found myself frequently coming across cases that stopped me dead and forced me to recontextualize the way I understood our public order. I realized that there were some areas where case law had long moved past where I thought it was, and there were other critical cases I was totally unaware of.

As I've been teaching American Constitutional Law for the past several years, I have had the opportunity to teach many of these cases to students, and I often find myself thinking, "I really wish everyone were more aware of these," particularly with regard to some cases that impact important issues in Christian circles.

So below you'll find my humble attempt to rectify that problem. Some of you may have heard of all of these cases, and some of you may know of other cases that you think would deserve a place on this list instead of one of the ones I've picked. To the first group I say "congratulations!" To the second group, I say, "Feel free to leave your suggestions in the comments, but nana nana boo boo, I picked the list, not you."

For more information on each case, click on the case title.

5. [Loving v. Virginia \(1967\)](#)

This case makes the list because it sits as the goalpost for the same sex marriage movement, and it may even set the legal groundwork that will bring that movement eventual success. The "every Christian should know this" moment for me comes in reading the last full paragraph of the Opinion:

"Marriage is one of the 'basic civil rights of man,' fundamental to our very existence and survival.... To deny this fundamental freedom on so unsupportable a basis as the racial classifications embodied in these statutes, classifications so directly subversive of the principle of equality at the heart of the Fourteenth Amendment, is surely to deprive all the State's citizens of liberty without due process of law. The Fourteenth Amendment requires that the freedom of choice to marry not be restricted by invidious racial discriminations. Under our Constitution, the freedom to marry, or not marry, a person of another race resides with the individual, and cannot be infringed by the State." (emphasis added)



Photo by [Beltmann/Corbis](#).

There are a lot of good things in that paragraph that I agree with, but swap the references to racial discrimination out for "sexual orientation," and you have the gold standard of what the same sex marriage movement is hoping for.

4. [Lee v. Weisman \(1992\)](#)

You might expect here that I picked this case to bemoan the forward march of secularism and the many cases limiting the free expression of religion in the public school context. But that's not why I think this case is important.

This case is important because it was authored by Justice Anthony Kennedy, the much-vaunted "swing vote" on the current Supreme Court, and when it comes to the religion clauses of the Constitution, that role is more important than almost anywhere else.

In this area of law, there are really three major lines of thought. Kennedy's theory is primarily concerned that the government not coerce citizens into favoring one religion or another or to favor religion over irreligion. Under this theory, Kennedy analyzed the conditions of the High School commencement ceremony, and he felt that the situation left Deborah Weisman with little practical alternative to what appeared to be participating in the benedictory prayer other than choosing not to attend her graduation. Under this same noncoercion theory, Kennedy did not object to programs which authorized school vouchers ([Agostini v. Felton](#)). At least until the composition of the Court changes, Christians need to familiarize themselves with Kennedy's arguments, because they represent the view that most often carries the day.

3. [Employment Division v. Smith \(1990\)](#)

This case is important for two principle reasons. First, it remains the default state of Constitutional protection of the free exercise of religion. Second, the backlash against this case resulted in the passage of the [Religious Freedom Restoration Act](#) (RFRA) by both the Federal Government and most of the States. This Act requires that when the government infringes on a person's free exercise of religion, it must do so for a compelling reason and in a manner that infringes on no more speech than necessary (a standard known as "strict scrutiny").

Of course, the recent decision by the Supreme Court that "person" embraces corporate personhood in *Burwell v. Hobby Lobby Stores* has started to generate some backlash against RFRA. Should this law ever be repealed, the default state of protection will revert to the standard announced in *Smith*, and there's no reason that a general law about something like discrimination couldn't be extended generally to apply to all organizations, regardless of their status. Especially given the increasingly-accepted argument that Conservative Christian views on homosexuality are driven solely by bigotry and are therefore not religious beliefs.

2. [Planned Parenthood v. Casey \(1992\)](#)

This is the case that inspired me to write this piece. Many Christians advocate to this day for us to "overturn *Roe*," but the truth is that much or most of the meat of that ruling has been changed. In a very real sense, *Roe* is no longer the law of the land, *Casey* is. Under this new standard, the State is permitted to advocate for the life of the child very proactively, and while it is still prevented from outlawing all abortion, the recognition that a developing child also has rights and interests that can be protected by the State is deeply important.

There is one other aspect of this case that is fascinating to me, and this is the shift in reasoning that O'Connor employs, grounding the right to abortion in a liberty interest protected by the Constitution, rather than the privacy argument advanced by the Court in *Roe*. O'Connor was concerned that women not be turned into "incubators of the State," and she describes the liberty interest of the constitution in the following way:

At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life. Beliefs about these matters could not define the attributes of personhood

were they formed under compulsion of the State.

It's beyond the scope of this article to delve into all the implications of this statement, but grounding personhood in the concept of individual choice and a postmodern concept of self-determination has profound implications. If we understand this particular anthropological worldview, we start to understand why the modern world so reviles Christians for “dehumanizing” others by failing to fully affirm and support their lifestyle choices and beliefs about who they are.

1. [Bob Jones University v. United States \(1983\)](#)

This case was a clear first choice for me. Applying the unscientific method of asking a fair number of my students and peers, almost none of them had heard of this case. At the same time, the precedent set here is bold and potentially far reaching: Organizations qualify as tax exempt if they are working for a “charitable purpose” as defined by the tax code. In this case, the Supreme Court placed a restriction on what counts as charitable based on whether the organization acts in accord with established public policy (in this case a public policy against racial discrimination). This case essentially limits the definition of charity not just by what an organization does but by the degree to which an organization conforms to the closely held beliefs of the social majority. Given this limitation, there are definite reasons for many Christian organizations, primarily those involved in education, to be concerned.



Photo by [Su Carlson](#).

While the other cases on this list are ones Christians should become familiar with, this is the one case I believe that we have to become aware of. People from across the political spectrum have mused upon the impact of this ruling on religious schools with respect to the growing consensus regarding discrimination based on sexual orientation, and, as Gordon College has experienced, public entities are already backing out of contracts and questioning the college's accreditation over concerns in this arena. While the ruling seems to protect churches and other “purely religious” organizations, it is not fear mongering to say that the application of this case to alleged orientation-based discrimination is most definitely an issue that Christian colleges will confront in the near future.

Dig Deeper

Want to know more? Read Donald Roth's [Top 10 United States Supreme Court Cases from the Last Term](#) for more readings on important U.S. Supreme Court cases.

Get new articles from us each morning after they're published

- [Twitter](#)
- [Facebook](#)
- [Google+](#)

- [LinkedIn](#)