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SUP. COURT

Draft Statements of RFRA Case -- Boerne v. Flores

A. RFRA upheld

I am very pleased by today's Supreme Court decision upholding the Religious Freedom Restoration Act. In the four years I have served as President, nothing has given me greater joy than the efforts of this Administration in supporting and enacting this important law. Our support of RFRA has been especially gratifying to me because our efforts were joined by individuals and institutions representing an unprecedented coalition of people with diverse religious backgrounds and diverse religious beliefs. We all joined together in pursuit of one common cause -- the protection of religious liberty for all citizens.

The Court's decision today upholding RFRA will serve as a landmark in our nation's historic commitment to the principles of religious liberty.

Throughout our history, men and women have come to this nation to escape religious persecution and secure this precious freedom. They and others have built a nation in which religious practices and religious institutions have thrived -- because each individual has been able to choose for himself or herself whether and how to worship. The Religious Freedom Restoration Act builds on this tradition and assures that the religious liberties of all Americans will be strongly protected.

B. RFRA struck down

Today the United States Supreme Court held part of the Religious Freedom Restoration Act unconstitutional. We will study that opinion closely.

Religious freedom is central to the American system of liberty. In the First Amendment of the United States Constitution, our nation's founders erected the twin pillars of this freedom, guaranteeing the free exercise of religion and prohibiting the establishment of religion by the state. Throughout our history, men and women have come to this nation to secure this precious liberty. They and other have built a nation in which religious practices and religious institutions have thrived -- because each individual has been able to choose for himself or herself whether, and, if so, how to worship.

In the four years I have served as President, nothing has given me greater joy than the efforts of this Administration to support freedom of religion. We have worked in tandem with a wide range of individuals and institutions representing an unprecedented coalition of people with diverse religious backgrounds and diverse religious beliefs in support of religious liberty. Our work with this coalition has led not only to the passage of RFRA but also to the issuance of guidance to public schools districts on the extent of permissible prayer and other speech of religious character. Although we are disappointed by the Supreme Court's ruling, we will continue to work to protect religious liberty to the fullest extent the Constitution allows.

Talking Points
Private Schools/Public Aid Supreme Court Decision
Agostini v. Felton
Contact: Myron Marlin 616-2777

Talking Points

- We are still reviewing the decision in Agostini v. Felton, in which we argued that public school teachers, under certain circumstances, should be able to teach remedial, secular classes in a religious school.

Background

- In 1985, the Supreme Court ruled that public school teachers who are paid with federal funds cannot teach remedial classes inside parochial schools, even if they are secular.
- The Court ruled it violated the Establishment Clause because it created a risk of "entanglement" of church and state.
- Several of the defendants in the original case asked the Court for relief from that ruling (under a provision of the Federal Rules of Civil Procedure) arguing that such relief was warranted by changed circumstances--namely that 5 of the sitting Justices have suggested the case be reconsidered.
- The Justice Department argued that the earlier Supreme Court decision should be overruled. It claimed that there is no serious danger of entanglement of church and state when public school teachers teach in a religious school under circumstances carefully designed to ensure that the instruction is not influenced by the surroundings of the religious school.
- The District Court and the Court of Appeals denied the relief concluding that lower courts have no authority to depart from a Supreme Court decision directly on point.

Talking Points
Line Item Veto Supreme Court Decision
Raines v. Byrd
Contact: Myron Marlin 616-2777

Talking Points

- We are still reviewing the decision in Raines v. Byrd, in which the Justice Department argued that the Line Item Veto Act is constitutional, and that the members of Congress did not have standing to challenge it.

Background

- The Line Item Veto Act gave the President the conditional authority to cancel certain spending and revenue items within five days after a bill has been enacted. It also gave Congress the power to "disapprove" the President's cancellation.
- The Justice Department argued that the Act is constitutional because Congress has the power to vest the Executive Branch with discretion over the expenditure of appropriated funds and because the Act places sufficient limits on his exercise of that discretion by requiring that items be cancelled "in whole" rather than in part.
- The Justice Department also argued that Congressmen do not have standing to bring the case because they cannot claim any personal injury and because any potential harm is too speculative since the President has not yet exercised his cancellation authority.
- The District Court permitted several Congressmen to proceed with their challenge and concluded that because the Act authorized the President to "repeal" Acts of Congress, it violate the Presentment Clause. [Note: In our brief, we argue that the Act does not give the President the power to "repeal" portions of an appropriations law, but instead gives him the power, similar to that in other statutes, to suspend, grant exemptions from or otherwise modify the operation of provisions of a statute.

Talking Points
Right to Die Supreme Court Decision
Vacco v. Quill
Contact: Myron Marlin 616-2777

Talking Points

- We are still reviewing the decision in Vacco v. Quill, in which the Justice Department defended the right of states to prohibit physicians from administering lethal medication.

Background

- In January, the Justice Department argued that the Court should uphold a New York State law which included a ban on assisted suicide.
- We argued that a State does not violate the Equal Protection Clause when it permits patients to refuse unwanted medical treatment, but prohibits physicians from providing lethal dosages of medication for competent, terminally ill adults seeking to end their lives.
- The Court of Appeals for the Second Circuit had previously held that the New York law violated the Equal Protection Clause.

Talking Points
Right to Die Supreme Court Decision
Washington v. Glucksberg
Contact: Myron Marlin 616-2777

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Talking Points

- We are still reviewing the decision in Washington v. Glucksberg.

Background

- In January, the Justice Department presented arguments, urging the court to reverse the court of appeals' decision.
- Our brief argued that while competent, terminally ill adults have a liberty interest in obtaining relief from severe pain or suffering, overriding state interests justify the state's decision to ban physicians from prescribing lethal medication.
- The Court of Appeals for the 9th Circuit had previously held that a state's prohibition against assisted suicide violates the Due Process Clause because it prohibits physicians from prescribing lethal doses of medication for competent, terminally ill adults who request the medication for the purpose of ending their lives.

Talking Points
Religious Freedom Restoration Act Supreme Court Decision
City of Boerne v. Flores, et al.
Contact: Myron Marlin 616-2777

Talking Points

- We are still reviewing the decision in City of Boerne v. Flores, et al., in which we argue that RFRA is constitutional.

Background

- In February, the Justice Department argued that the Court uphold the constitutionality of RFRA, the Religious Freedom Restoration Act.
- We argued that:
 - ▶ under Section 5 of the Fourteenth Amendment, Congress has the authority to encompass fundamental rights with an additional statutory layer of protection;
 - ▶ by enforcing the free exercise guarantee, RFRA, like the Voting Rights Act and Title VII of the Civil Rights Act, is not an infringement on the constitutional role of the judiciary and does not violate separation of powers;
 - ▶ legislation that neutrally alleviates government imposed burdens on religious exercise does not violate the Establishment Clause;
 - ▶ by imposing a reasonable federal standard that protects a Fourteenth Amendment right, RFRA does not run afoul of the Tenth Amendment or principles of federalism.
- The Court of Appeals for the Fifth Circuit had previously held RFRA represents a constitutionally proper exercise of Congress' power under Section 5 of the Fourteenth Amendment and does not transgress the separation of powers doctrine, the Establishment Clause or the Tenth Amendment.

Talking Points
Internet Supreme Court Decision
Reno v. American Civil Liberties Union
Contact: Myron Marlin 616-2777

Talking Points

- We are still reviewing the decision in Reno v. American Civil Liberties Union, in which we defend the indecency clause of the Communications Decency Act.

Background

- In March, the Justice Department presented arguments urging the court to uphold the constitutionality of the Communications Decency Act (CDA).
- Our brief argued that CDA serves a compelling government interest and is narrowly tailored to achieve that end.
- We contended that:
 - ▶ The transmission and specific person provisions of the law are no different than the prohibition on the sale of indecent material to minors that was upheld in Ginsberg v. New York.
 - ▶ The display provision is constitutional under FCC v. Pacifica Foundation, because it permits persons to post indecent material on the Internet so long as they condition access on the use of credit cards or other adult identification devices.
- The three-Judge District Court in Philadelphia previously held the CDA provisions pertaining to the dissemination and display of indecent or patently offensive material via the Internet violated the First Amendment. As a result, they entered a preliminary injunction.

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