CLAYTON v. PLACE (1989)

Banning School Dances

Facts

Purdy is a small, rural community in southwestern Missouri. The record indicates religion is an important force in Purdy, and particular churches are staunchly opposed to social dancing. Over the years, various groups have unsuccessfully sought permission for school dances and have proposed changing the District's no-dancing rule. Despite their lack of success, however, Purdy students are not prohibited from holding dances away from school property, and they have regularly done so.

In February 1988, a group seeking reconsideration of rule 502.29 to enable a newly formed student organization to sponsor a dance at the high school appeared before the Board of Education. A local minister who opposed changing the rule attended the meeting and requested a place on the Board's March agenda to make a presentation on the subject.

Ministers of several local churches spoke out during church services against changing the rule and encouraged members of their congregations to attend the March Board meeting to show their opposition.

A crowd gathered for the March Board meeting. Although "no direct mention was made of religion *per se* at the meeting," the minister who had attended the February meeting spoke against changing the rule and read a letter from the ministerial group to the same effect. When he finished, he took the opportunity to ask those in the audience who opposed changing the no-dancing rule to stand. An "overwhelming majority of people stood in opposition to changing the rule." The Board agreed to "leave the rule intact."

Plaintiffs then brought this action, contending the rule violated: (1) the Freedom of Association Clause of the First Amendment; (2) the Freedom of Speech Clause of the First Amendment; (3) the Establishment Clause of the First Amendment; and (4) Article I, Section 8 of the Missouri Constitution. The court rejected plaintiffs' freedom of association and speech challenges but held that the rule violated the Establishment Clause of the federal Constitution. In addition, the court held that for the same factual reasons given in connection with its Establishment Clause ruling, the District's no-dancing rule violated the Missouri Constitution.

Issue

Does the School District's policy prohibiting school dances violate the First Amendment?

Decision

No. The District's no-dance rule is not an unconstitutional Establishment of Religion under the First Amendment.

Reasoning of the Court

The Supreme Court has consistently followed the three-part *Lemon* test adopted in *Lemon v. Kurtzman*, 403 U.S. 602, for determining whether a challenged governmental rule offends the Establishment Clause. Under the *Lemon* framework, a rule is permissible if it has a secular purpose; if it neither advances nor inhibits religion in its principal or primary effect; and if it does not foster an excessive entanglement with religion. *County of Alleghny v. ACLU*, 109 S.Ct. 3086, 3100 (1989). The challenged rule is valid only if it meets all three tests.

(1) Plaintiffs conceded that extracurricular dancing is an entirely secular activity. ("Condemnation of dancing is not firmly rooted in Judeo-Christian moral or ethical standards.") Further, the rule carries within its text absolutely no religious component, and there is no record of evidence of any actual religious purpose connected with the rule's enactment or its textual requirements.

(2) The record does not fairly demonstrate that any religious doctrine is principally or primarily advanced by the Board's enforcement of the no-dancing rule. *See Corporation of the Presiding Bishop of the Church of Jesus Christ of Letter-day Saints v. Amos*, 482 U.S. 327, 337 (1987). No students are prohibited from engaging in or refraining from extracurricular dancing should they chose to do so.

(3) There is no showing that the rule fosters excessive government entanglement in religious affairs. If anything, the rule promotes less, rather than more, school involvement in what plaintiffs contend is a religiously significant activity. *See Amos*, 483 U.S. at 339.

For these reasons, we conclude the District's no-dancing rule, on its face, satisfies the controlling *Lemon* standards. "The proper remedy for plaintiff's disenchantment with a Board that refuses to change a rule that is compatible with *Lemon* is found at the ballot box and not in the Constitution."

Note: The U.S. Supreme Court let the ruling stand without comment. However, the Court is currently reconsidering the viability of the *Lemon* test for Establishment Clause cases.