

***ALLEGHENY v. AMERICAN CIVIL LIBERTIES UNION OF  
PITTSBURGH, 487 U.S. 1 (1989)***

**GOVERNMENT DISPLAY OF RELIGIOUS HOLIDAY SYMBOLS**

**The Facts**

During the 1986-87 holiday season, a large creche was erected on the Grand Staircase of the Allegheny County Courthouse in Pittsburgh. The prominent nativity scene was located in the main part of the courthouse and included figures of Jesus, Mary, Joseph, wise men, and an angel bearing a banner proclaiming “Gloria in Excelsis Deo!” (Glory to God in the Highest!) During the same season, outside another public building, the city erected a 45-foot lighted Christmas tree. At the foot of the tree, there was a sign entitled “Salute to Liberty” explaining that “these festive lights remind us that we are the keepers of the flame of liberty.” Near the tree, the city placed an 18-foot Menorah, an eight branch candle symbolizing the Jewish Holiday of Chanukah which usually occurs in December.

The American Civil Liberties Union claimed that the displays of the creche and the Menorah were unconstitutional endorsements of religion in violation of the Establishment Clause. The city said that the displays were simply a way of commemorating the secular holiday season.

**Issues for Discussion**

1. Does the city display of the Christmas tree, creche, or Menorah constitute an endorsement of religion? Or are they simply symbols of the holiday season?
2. Are some holiday symbols religious and others secular? If so, give examples of each.
3. When, if ever, should the government be prohibited from displaying religious symbols?
4. How can judges decide whether to prohibit government displays of some holiday symbols but not others?

## **Decision of the United States Supreme Court**

Based on the specific facts of this case, the Court ruled that the creche display violated the Establishment Clause because it constituted government endorsement of religion. The display of the Menorah and Christmas tree did not.

### **Reasoning of the Court**

If a government practice “which touches upon religion” is to be permitted under the Establishment Clause, it must not have the “purpose or effect of endorsing religion.” Thus, the government is prohibited from “conveying a message that religion is invalid because it “sends a message to non-adherents that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.”

To determine whether the government’s use of a religious symbol has the effect of endorsing religion, judges should consider what a “reasonable observer” may understand to be the purpose of the display. This depends on the context in which the display appears. In an earlier Rhode Island case, the Court ruled that a creche in the context of a large holiday display that included a Santa Claus, house, reindeer, Christmas tree, miniature village, and many other secular symbols next to a banner proclaiming “Seasons Greetings” did not constitute a message of endorsement of Christian beliefs. But in this case, the creche sits alone in the most prominent place in the county government building with a sign making its religious meaning “unmistakably clear: Glory to God in the Highest!” Thus, the government may observe Christmas in a secular or cultural manner, but “it may not observe it as a Christian holy day by suggesting that people praise God for the birth of Jesus.” In contrast, the combined display of the Christmas tree, Chanukah Menorah, and the “salute to liberty” sign is not an unconstitutional endorsement of religion. This display communicated “the city’s secular recognition of different traditions for celebrating the winter holiday season.”

In a dissenting opinion, Justice Kennedy, joined by Justices White, Scalia, and Rehnquist, argued that both the Menorah and creche displays are permissible ways the government can “celebrate the season.” The displays do not violate the First Amendment, write the dissenters, because there is “no realistic risk that the creche or the Menorah represent an effort to proselytize or are otherwise the first step down the road to an establishment of religion.”