Justices to review prayer at government meetings

by Richard Wolf in the June 12, 2013 issue

The Supreme Court has agreed to consider whether prayers can be offered at government meetings—a practice that's been common in Congress and throughout the states for more than two centuries.

The religious expression case, which comes to the Court from the town of Greece, New York, focuses on the first ten words of the First Amendment, ratified in 1791: "Congress shall make no law respecting an establishment of religion."

The Establishment Clause was violated, the Second U.S. Circuit Court of Appeals ruled last year, when the Greece town board repeatedly used Christian clergy to conduct prayers at the start of its public meetings. The decision created a rift with other appeals courts that have upheld prayer at public meetings, prompting the justices to announce May 20 that they will take the case.

Alliance Defending Freedom, an Arizona-based Christian nonprofit group, appealed the case to the Supreme Court. It is supported in separate briefs by 49 mostly Republican members of Congress and 18 state attorneys general.

"A few people should not be able to extinguish the traditions of our nation merely because they heard something they didn't like," said the ADF's senior counsel, Brett Harvey.

Americans United for Separation of Church and State, a Washington-based watchdog group, is representing the two women who challenged the town's practice, Susan Galloway and Linda Stephens.

"A town council meeting isn't a church service, and it shouldn't seem like one," said Barry W. Lynn, executive director of Americans United, who noted that between 1999 and June 2010, about two-thirds of the 120 recorded invocations contained references to "Jesus Christ," "Jesus," "Your Son" or the "Holy Spirit."

Kenneth Klukowski, a lawyer for the Family Research Council who filed a brief on behalf of the 49 U.S. House members, said the Supreme Court was correct to take the case to clear up differences among lower courts on the issue of religious expression. It represents the first such case to reach the high court in a generation, he said.

“If the Second Circuit’s decision is what the Establishment Clause requires, then Congress has been violating the Establishment Clause since it was ratified in 1791,” Klukowski said. In his brief he notes that in the 112th Congress, 97 percent of the prayers used to open House sessions were Christian, as opposed to Jewish or Muslim, yet the practice is widely accepted.

The court will hear the case in its next term, which begins in October. Its decision is expected by June 2014. —*USA Today*