Prayer at public meetings What does the Constitution Allow?

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1st Amendment

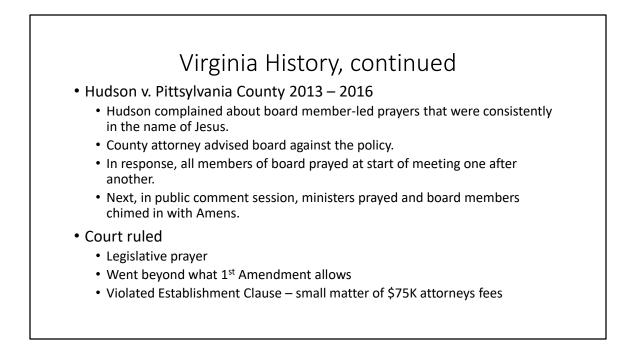
• Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof

Two parts:

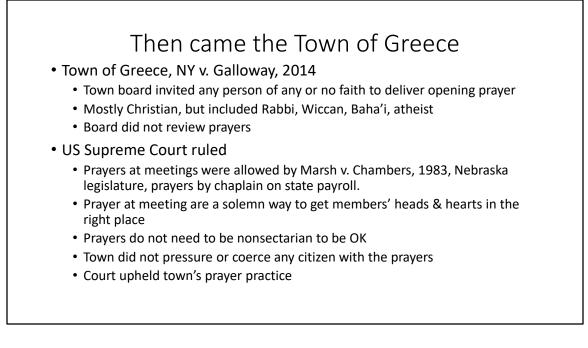
- Freedom of religion
- Establishment clause
- The issue for prayers at meetings is the Establishment Clause

Recent History of Council meeting prayers in VA, 4th Circuit

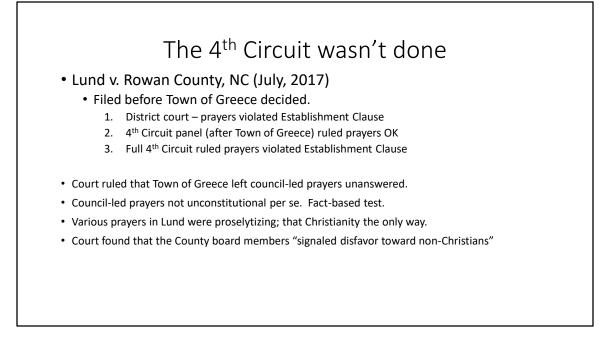
- 2004 Wynne v. Great Falls, SC council member-led prayers, regularly called on Jesus. Wynne was treated poorly by council members for not taking part in prayers.
 - Violated 1st Amendment Establishment Clause
- Turner v. Fredericksburg City Council 2008
 - Reverend Turner on council. Council adopted a non-sectarian prayer policy. He sued for right to invoke Jesus. Court ruled opening prayers are legislative prayers, not individual prayers. Therefore, the establishment clause applied & he did not have the right to pray in name of Jesus. His freedom of religion wasn't the issue, rather the Establishment Clause.



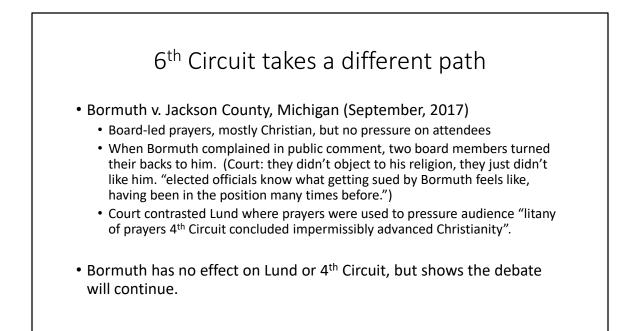
County's argument – Hudson a disruptive citizen. Hudson, a Jew, kept coming to board meetings, therefore she was not suffering harm.



Did the ruling erase the 4th Circuit's dim view of legislative prayers?



Court had transcripts of long list of prayers aimed at audience.



Where does this leave a town or city council in Virginia?

- Council-member led prayers are allowed
- Sectarian prayers are allowed (better if non-Christians participate)
- Prayers by citizens, clergy clearly allowed
- Prayers must be non-coercive, solemn, not proselytizing, not aimed at any members of audience, not condemning of non-Christians
- Prayers should be used to remind council of solemnity of the meeting, and meant to help council get in the right frame of mind
- Obviously, prayer is not required to start meetings
- Safer prayer policy, if prayers will continue have local clergy deliver, not the council members. But, this is not required.

Practice in Virginia

- Summer 2017 informal survey of Local Government Attorneys.
- Board/Council Members offer invocation: 9 localities
- <u>Clergy invited to offer invocation</u>: 5 localities
- <u>Public asked/invited to stand</u>: 5 *yes*, 9 *no* (not every responder provided information)
- Moment of Silence: 5 localities
- <u>Revisiting the issue</u>: 3 localities
- Nothing start meeting 1 locality