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**Dr. Land's
magazine
articles**
eSalt (New)
eSalt Archive
**eSalt Action
Alerts**
**For Faith &
Family Magazine
Archive**

[Home](#) > [Publications](#)

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If we allow the continuation of the brazen power grab of this judicial oligarchy masquerading as a Supreme Court, it will fundamentally alter our freedom and liberties. It is time for the American people to rise up and demand that we want government of the people, by the people and for the people back. We have not ceded our freedom and liberty to the imperial Supreme Court.

Dr. Richard Land
President, SBC Ethics & Religious Liberty Commission

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High court muddles Ten Commandments issue The U.S. Supreme Court issued split rulings June 27 on public exhibits of the Ten Commandments that appeared to do little to clarify the issue.

Eminent domain ruling complicating for churches The Supreme Court decided June 27 to permit local governments to seize private property for economic development in a decision that is expected to complicate matters for churches.

Justices accept pro-life protest case again The Supreme Court announced June 28 it would rule on an abortion protest case that returned to the high court after the justices appeared to settle in a 2003 opinion whether a federal anti-racketeering law could be used against pro-life demonstrators.

House rejects funds for U.N. Population Fund The U.S. House of Representatives turned back a Judiciary Committee attempt to reinstate funding for a controversial United Nations family planning fund linked to China's one-child population control program.

Senate confirms another appeals court judge The U.S. Senate easily confirmed Thomas Griffith to the District of Columbia Circuit Court of Appeals in a 73-24 vote June 14, bringing to six the number of appellate nominees approved in a three-week period.

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High court muddles Ten Commandments issue

The U.S. Supreme Court issued split rulings June 27 on public exhibits of the Ten Commandments that appeared to do little to clarify the issue.

In 5-4 decisions, the justices invalidated displays of the Ten Commandments in two Kentucky courthouses while upholding a stand-alone monument of the Decalogue on the Texas capitol grounds.

The court ruled Ten Commandments displays in courthouses in Kentucky's McCreary and Pulaski counties violated the First Amendment's ban on government establishment of religion, even though they were set up as an officially sponsored exhibit that included the Declaration of Independence, Bill of Rights and Magna Carta. In the Texas ruling, the justices found constitutional a granite monument donated by a private organization.

Supporters of government accommodation of religion largely expressed disappointment with the decision.

Ethics & Religious Liberty Commission President Richard Land said he expected the court to "rule against the government's display by a government entity and accommodate a display by a nongovernmental group on government property."

"The most alarming thing about this pair of rulings is that the decision to accommodate a Ten Commandments display donated by a nongovernmental source only won 5-4, which shows the degree to which this court has embraced secular fundamentalism as its religion," Land said. "The Kentucky court's decision shows that, as Justice [Antonin] Scalia said in the 2003 *Lawrence v. Texas* opinion [striking down state anti-sodomy laws], the majority of this court has 'taken sides in the culture war,' and it's the side of the secular fundamentalists."

R. Albert Mohler, president of Southern Baptist Theological Seminary in Louisville, Ky., wrote in a commentary on his website, "At the end of the day, the real winners were the lawyers, who can look forward to a tidal wave of litigation in the aftermath of these confusing decisions. The Court established no clear principle for determining the constitutionality of Ten Commandments displays, and the contorted and shifting arguments contained in the various written opinions offer what can only be described as contradictory principles."

Associate Justice Stephen Breyer was the only member of the court in the majority in both opinions. Breyer joined Associate Justices John Paul Stevens, Sandra Day O'Connor, David Souter and Ruth Bader Ginsburg in ruling against the Kentucky displays. He joined Chief Justice William Rehnquist and Associates Antonin Scalia, Anthony Kennedy and Clarence Thomas in the majority in the Texas ruling.

Land said of the Kentucky courthouse decision, "If we allow the continuation of the brazen power grab by a judicial oligarchy masquerading as a Supreme Court, it will fundamentally alter our freedom and liberties. It is time for the American people to rise up and demand that we want government of the people, by the people and for the people back. We have not ceded our freedom and liberty to the imperial Supreme Court."

On June 28, the justices announced they would not review a lower-court decision by the Sixth Circuit Court of Appeals in Cincinnati, Ohio, that Ten Commandments displays outside new schools in Adams County are unconstitutional.

[Back to Top](#)

Eminent domain ruling complicating for churches

The Supreme Court decided June 27 to permit local governments to seize private property for economic development in a decision that is expected to complicate matters for churches.

In a 5-4 decision June 23, the justices ruled a city's use of eminent domain to transfer property from one private party to another may qualify as a "public use" protected by the Constitution. More conservative members of the high court criticized the ruling as an abandonment of a "long-held, basic limitation on government power."

The Becket Fund for Religious Liberty predicted the high court's decision in *Kelo v. New London* would not result in the seizure of church property but said it will cause problems.

"The decision yesterday did not have a damaging impact on religious institutions," said Jared Leland, the Becket Fund's media and legal counsel, June 24. "It did remove, however, an extra layer of protection that religious institutions would have had."

Churches may still rely upon the First Amendment and the Religious Land Use and Institutionalized Persons Act to protect them, Leland said.

"The only problem is, we're going to have a lot more of those cases," Leland said. "We're still going to have the cases, but it's going to be a tremendous headache."

The majority in the opinion consisted of Associate Justices John Paul Stevens, Anthony Kennedy, David Souter, Ruth Bader Ginsburg and Stephen Breyer. Dissenting were Chief Justice William Rehnquist and Associates Sandra Day O'Connor, Antonin Scalia and Clarence Thomas.

[Back to Top](#)**Justices accept pro-life protest case again**

The Supreme Court announced June 28 it would rule on an abortion protest case that returned to the high court after the justices appeared to settle in a 2003 opinion whether a federal anti-racketeering law could be used against pro-life demonstrators.

The justices' decision to review lower-court action in the pro-life protest case gives them an opportunity to deal with what appears to be a recalcitrant appeals court. In 2003, the justices decided in an 8-1 ruling that the Racketeering Influenced and Corrupt Organizations Act (RICO) did not apply to protest activities at abortion clinics. The pro-life demonstrators did not commit extortion, the justices ruled, sending the case back to the Seventh Circuit Court of Appeals. The Seventh Circuit, however, ruled a nationwide injunction against the protesters should remain in place under RICO.

The twin cases, *Operation Rescue v. National Organization for Women* and *Scheidler v. NOW*, will be consolidated and argued before the high court after its new term begins in October.

The cases began in 1986 with suits by NOW.

They are primarily free-speech cases, and activists from across the political spectrum have sided with the pro-life demonstrators. Among those signing onto friend-of-the-court briefs supporting the pro-lifers were actor Martin Sheen, anti-war priest Daniel Berrigan and anti-death penalty activist Helen Prejean, as well as People for the Ethical Treatment of Animals.

[Back to Top](#)**House rejects funds for U.N. Population Fund**

The U.S. House of Representatives turned back a June 16 attempt to reinstate funding for a controversial United Nations family planning fund linked to China's coercive population control program.

The House voted 233-192 against an amendment by Rep. Carolyn Maloney, D.-N.Y., to suspend federal funding to allow funds for the United Nations Population Fund (UNFPA). Twenty-four Democrats joined 209 Republicans to defeat the proposed attachment to a spending bill.

Though the UNFPA has denied charges it supports coercive population control, a State Department investigative team in 2002 reported the UNFPA provided computers and vehicles to Chinese population-control offices. For many years, Chinese officials have forced women to have abortions and be sterilized to limit population growth. The enforcement of such a policy varies among provinces.

The Bush administration has refused to fund the UNFPA for the past three years because of its determination that such a contribution would violate the 1985 Kemp-Kasten amendment, which prohibits family planning aid from going to any entity that, as determined by the President, "supports or participates in the management of a program of coercive abortion or involuntary sterilization."

[Back to Top](#)**Senate confirms another appeals court judge**

The U.S. Senate easily confirmed Thomas Griffith to the District of Columbia Circuit Court of Appeals in a 24 vote June 14, bringing to six the number of appellate nominees approved in a three-week period.

Griffith, general counsel at Brigham Young University, joined five previously filibustered nominees—Pris Owen, Janice Rogers Brown, William Pryor, Richard Griffin and David McKeague—in receiving confirmation votes since a May 23 compromise by 14 senators opened the way for floor action on some of President Bush's appeals court selections.

It remains to be seen whether the President's other appellate nominees will receive floor votes, however seven Democrats involved in the compromise committed to oppose filibusters of Owen, Brown and Pryor made no such promise on William Myers and Henry Saad, nominees to the Ninth and Sixth circuits, respectively. Other appeals court nominees whose fate remains uncertain are Terrence Boyle and William Haynes, both recommended for the Fourth Circuit, and Brett Kavanaugh, a choice for the D.C. Circuit.

The Judiciary Committee sent Boyle to the full Senate in a party-line vote June 16. The committee vote 8 for Boyle, with Republicans in the majority. Democrats have strongly criticized Boyle, and it is uncertain they will seek to use a filibuster to block a confirmation vote on the 21-year veteran of the federal bench.

President Bush originally nominated Boyle to the Fourth Circuit Court of Appeals in 2001. He has since renominated Boyle in both 2003 and 2005. The Democrats' delays of Boyle go back to 1991, when he was selected for the Fourth Circuit by the first President Bush. Boyle never received a hearing then, however.

As with the other filibustered nominees, abortion rights organizations have been among the leaders of the opposition.

[Back to Top](#)

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