

If you so choose, write a 4-5 page (maximum of five pages) memorandum in clear and grammatically correct English on the following case. You should briefly note the facts, isolate the relevant constitutional questions, and discuss those questions referring to the cases we have read in class. A sheet of instructions is attached to the syllabus.

Becky Mendenhall v. Kayla Whittingham

Assigned March 1, 2007. Due March 8, 2007.

Petitioner Becky Mendenhall was a participant in Beehive Girls State, a high school civics exercise held annually at the University of Utah. During this exercise in self-governance, high school age girls from throughout the state of Utah participate in a series of simulations of legislative activity, executive actions, and judicial review. The program is funded primarily, but not exclusively, by the state of Utah's Department of Public Education and involves delegates from all Utah high schools, both public and parochial, as well as two students selected by the state's leading association of home schoolers. Girls must apply for the privilege of being selected as Beehive Girls State delegates by their high schools, and may withdraw from consideration even after their selection, but, once at BGS, attendance at all events is mandatory.

Mendenhall complains of two violations of the First Amendment religion clauses. The first regards the saying of a prayer opening the session of the Girls State legislative assembly. Mendenhall was elected to this assembly, and so was required to be present for its opening. The prayer was said by Kayla Whittingham, who had been designated the legislative chaplain. Whittingham, a Western Orthodox Agnostic, recited the following prayer, which had been written by the assembly's Committee on the Supernatural:

To whom it may concern: We beseech you, Oh God and/or Goddess, who created us, possibly through the process of evolution, so that we might serve our fellow citizens. Bless us in all of our endeavors, lead us to know thy ways, and may the BYU Cougars lose every one of their remaining games this season.

During the saying of the prayer, Mendenhall was asked, but not forced, to stand in reverence, and to join in the refrain "Hallelujah - Go Utes Go!!!"

Mendenhall is an Eastern Orthodox Agnostic, and a BYU Cougars fan. She alleges that such exercises violate the Establishment Clause and inhibit her free exercise of her own religion by creating an atmosphere hostile to her beliefs. The State responds by claiming that the exercises described are part of the history and traditions of the people of Utah that they are educational, and not religious, in nature, and that Mendenhall was not coerced in any way. Your boss is the judge hearing the case, write a memo recommending the proper decision and reasoning in resolving this case.