

# Court decision favors Rocky Mountain Christian Church

by Randy Bright <http://www.tulsabeacon.com/?p=4926>

Last November, I wrote about the case of Rocky Mountain Christian Church (RMCC) in Boulder Colorado, and also did a one-hour show on OK-SAFE's American in the Balance Internet radio explaining how important this case was to the freedom of churches all across America, and how critical it was that the Supreme Court not hear this case.

The good news is that the Supreme Court has declined to hear the case.

The reason that I did not want RMCC's case heard is simple. Since the addition of two liberal judges, I felt that there was a more than likely chance that the RLUIPA (Religious Land Use and Institutionalized Persons Act) would be declared unconstitutional, leaving hundreds of churches unprotected from being unfairly treated with onerous zoning codes.

RMCC is a megachurch that is located in an agricultural zone. When it applied for a permit to expand its facilities in 1997, they were forced into signing over 14 acres of its 50 acre tract to Boulder County in the form of a conservation easement as a condition of receiving the permit. In 2004, the church submitted its master plan to the county, which would have added 132,000 square feet to its existing 116,000 square feet facility, but the Planning Commission denied their permit. The following year at least two public hearings were held, and it looked like the Commissioners were going to grant the permit because of the RLIUPA.

But a few weeks later they denied the permit, directing the county attorney to ask a federal judge for a declaratory judgment to determine if the denial of the permit was in compliance with RLUIPA.

In March of 2006, the Boulder County Commissioners filed a lawsuit in federal court against the church for that declaratory judgment. In response, the church filed a lawsuit against the commissioners for violating their First Amendment Rights and their rights according to RLUIPA.

Boulder County's lawsuit was dismissed, but a jury heard the church's case in 2008, determining that the Boulder County Commissioners had violated RLIUPA, but had not violated the church's First Amendment rights. In 2009, the judge ordered Boulder County to approve the church's plans.

Instead, the commissioners decided to appeal the case, and later that year the county's attorneys were in a U.S. Court of Appeals arguing that RLUIPA was unconstitutional.

Finally, in March of 2010, three federal appellate judges in the 10th Circuit Court heard the case, and five weeks later ruled in favor of the church. The church was awarded \$1.25 million for their

legal costs. The county asked the appellate court to reconsider the decision, but their request was denied.

Once again Boulder County appealed, this time petitioning the U.S. Supreme Court to determine the constitutionality of the RLIUPA. They also wanted it to establish precedent for dealing with land use disputes with churches, saying that local governments “face a quagmire of undefined terms, judicial disagreement and complex constitutional analysis every time a religious landowner applies for a building permit.”

One thing that made RMCC’s case unique is that they chose to make a stand and fight Boulder County. This led to a 7-year long court battle in which RMCC won its case at virtually every turn.

But it was a very costly battle, leading to a \$1.25 million judgment against Boulder County that would not begin to pay for all of the costs the church incurred. Few churches have the financial ability or the emotional fortitude to fight such a battle, and I believe all churches in America owe them a debt of gratitude. Had they given up their fight or lost their case, it would have led to widespread abuse of church rights.

The Becket Fund for Religious Liberty was also deserves a great deal of credit due to the expert legal services they provided to the church.

RMCC’s story is one that could happen to any church that finds itself under the authority of a zoning code that has been written to essentially “zone-out” churches. While the RLUIPA does not prevent municipalities from unfairly treating churches with zoning codes in all cases, it does discourage the practice and continues to prove its value in protecting churches once a violation has occurred.

The impact of the Supreme Court’s denial to hear this case can’t be underestimated. Apparently there were as many as 160 other church cases whose outcomes are going to be much better in light of this legal victory.

Despite the victory, it is certain that the RLUIPA will face many more challenges in court. Let’s hope it continues to stand.

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