

Court says transit agency can reject Washington Archdiocese's Advent ads

WASHINGTON — The U.S. Court of Appeals for the District of Columbia Circuit has ruled against the Archdiocese of Washington in a dispute over the Washington Metropolitan Area Transit Authority's rejection of its ad for buses.

The appeals court said in a July 31 decision that WMATA's rule against issue-oriented ads, which includes ads of a religious nature, did not violate the First Amendment.

The Washington Archdiocese wanted to place ads promoting its annual "Find the Perfect Gift" initiative for the Advent season last year. It included a link to parish resources, a way to order holy cards, and religious videos and reflections. The ad also included the outlines of a Nativity scene.

WMATA declined to allow the ad "because it depicts a religious scene and thus seeks to promote religion."

The archdiocese sought relief from the courts, asking that WMATA be required to post the ad promoting the Advent initiative, but U.S. District Judge Amy Berman Jackson Dec. 8, 2017, denied the request.

The archdiocese filed an appeal in the D.C. Circuit, which resulted in the latest ruling siding with WMATA.

The WMATA's prohibition on such ads, the archdiocese had argued, "violates the free speech rights of the archdiocese because the prohibition creates an unreasonable and disproportionate burden on the exercise of the archdiocese's speech without any legitimate justification."

In 2015, WMATA stopped allowing issue-oriented ads, a category which includes political, religious, and advocacy ads, after complaints from employees and riders

about past ads of that nature. One such ad was critical of the Catholic Church's position on condoms, another displayed graphic pictures of animal cruelty, and a third attacked Islam.

In the July 31 ruling, the appeals court said that, based on precedent, "transit authorities have been permitted to accept only commercial and public service oriented advertisements."

The court said it made this decision on the grounds that "a streetcar or bus is plainly not a park or sidewalk or other meeting place for discussion." Instead it is "only a way to try to get to work or back home."

As a result, the court found that WMATA did not have to accept the archdiocese's ad.

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