

Transcript

Sacred and secular

Judge Thomas Griffith

Thomas Griffith:

I'm Thomas B. Griffith. I'm a Circuit Judge on the United States Court of Appeals for the District of Columbia Circuit in the United States of America. The D.C. Circuit is a unusual docket for American federal appeals courts. We hear many cases involving challenges to actions taken by the United States government and its agencies. So it's a fascinating court with an interesting docket. We're also very proud of the fact that four of our alums are on the United States Supreme Court. And so we have a rich heritage and a tradition of hopefully-- oh definitely, a heritage a great judges. Hopefully, we'll keep that going. But, uh--

Interviewer:

And how have you been involved in religious freedom issues?

Thomas Griffith:

My interest in religious freedom issues goes back quite some time, but as a professional, mostly before I was a judge. For a number of years I was the general counsel of Brigham Young University, which is owned and operated by the Church of Jesus Christ of Latter-Day Saints. And I was deeply interested in preserving the role of a religious university college in American higher education. So I worked very closely with general counsels of other universities, Notre Dame, Pepperdine, Baylor, other American universities that have a commitment to religious liberty. To make certain that the religious liberty rights of those universities were preserved.

So I spent a lot of time working on those issues professionally. And then as a judge, I mean we interpret the United States Constitution, and we don't get too many religion cases on the D.C. circuit, but occasionally, we do. And then, perhaps most importantly, just as a citizen of the United States, and as a citizen of the world, interested in preserving the ability of religions to operate freely within their sphere.

Interviewer:

And could you just tell me something about the issues surrounding survival, if you like, of the religion causes in a secular age?

Thomas Griffith:

To me the United States Constitution preserves the right of religious peoples to exercise their religion freely. It also prevents government from establishing religion. Those clauses of the First Amendment date back to the late 18th century, and they were central to the constitutional scheme that was devised. Well, we live in a different time now. We live in an increasingly secular age. The growth of those, that I'm told from social scientists that there's been a larger growth amongst that section of the population which is not affiliated with religion than any other segment of society.

So I'm going to explore the idea of what does that change in the demographic structure of the United States of America possibly mean for our understanding of religious liberty. And right now, I think religious liberty is well protected in the United States, because protection for religious liberties enshrined in the first member of the Constitution. There's some tensions out there with the changing demographics, and I'm going to explore that in my presentation. I don't have any answers for it, more than anything, I'm spotting some issues and suggesting that for those who are interested in preserving religious liberty, they need to come up with arguments beyond the fact that it's now protected in the Constitution. That's certainly a necessary argument, whether it's sufficient in the years to come, I don't know about that. Under the jurisprudence of this Supreme Court, I think religions have been well protected.

This Supreme Court up to this point of time has shown a deep interest in preserving the traditional understanding of the religion clauses. There are those primarily in the legal academy who are questioning whether religion ought to have some special protections, even though it's there in the language the Constitution. They're sort of questioning the wisdom of that. And my thoughts are directed more along those lines, and how does one analyse the argument that it's somehow unfair, somehow a violation of notions of equal protection, that that religious conduct, and belief and behavior, seems to be given a special place in the Constitution. There are some who argue that that's inherently unfair. And my thoughts are more along the line of can an argument be made that religion, not only does it have some special protection of the Constitution, but in fact it ought to have that protection, even in an age that's growing increasingly secular.