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SUPREME COURT OF THE UNITED STATES

Syllabus

LAMB'S CHAPEL ET AL. v. CENTER MORICHES UNION FREE SCHOOL DISTRICT ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE
SECOND CIRCUIT

No. 91-2024. Argued February 24, 1993—Decided June 7, 1993

New York law authorizes local school boards to adopt reasonable regulations permitting the after-hours use of school property for 10 specified purposes, not including meetings for religious purposes. Pursuant to this law, respondent school board (District) issued rules and regulations allowing, *inter alia*, social, civic, and recreational uses of its schools (Rule 10), but prohibiting use by any group for religious purposes (Rule 7). After the District refused two requests by petitioners, an evangelical church and its pastor (Church), to use school facilities for a religious oriented film series on family values and child-rearing on the ground that the film appeared to be church related, the Church filed suit in the District Court, claiming that the District's actions violated, among other things, the First Amendment's Freedom of Speech Clause. The court granted summary judgment to the District, and the Court of Appeals affirmed. It reasoned that the school property, as a "limited public forum" open only for designated purposes, remained nonpublic except for the specified purposes, and ruled that the exclusion of the Church's film was reasonable and viewpoint neutral.

Held: Denying the Church access to school premises to exhibit the film violates the Freedom of Speech Clause. Pp. 5-12.

(a) There is no question that the District may legally preserve the property under its control and need not have permitted after-hours use for any of the uses permitted under state law. This Court need not address the issue whether Rule 10, by opening the property to a wide variety of communicative purposes, has opened the property for religious uses, because, even if the District has not opened its property for such uses, Rule 7 has been unconstitutionally applied in this case. Access

to a nonpublic forum can be based on subject matter or speaker identity so long as the distinctions drawn are reasonable and viewpoint neutral. *Cornelius v. NAACP Legal Defense and Ed. Fund, Inc.*, 473 U. S. 788, 806. That Rule 7 treats all religions and religious purposes alike does not make its application in this case viewpoint neutral, however, for it discriminates on the basis of viewpoint by permitting school property to be used for the presentation of all views about family issues and child-rearing except those dealing with the subject from a religious standpoint. Denial on this basis is plainly invalid under the holding in *Cornelius, supra*, at 806, that the government violates the First Amendment when it denies access to a speaker solely to suppress the point of view he espouses on an otherwise includible subject. Pp. 5-9.

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(b) Permitting District property to be used to exhibit the film would not have been an establishment of religion under the three-part test articulated in *Lemon v. Kurtzman*, 403 U. S. 603. Since the film would not have been shown during school hours, would not have been sponsored by the school, and would have been open to the public, there would be no realistic danger that the community would think that the District was endorsing religion or any particular creed, and any benefit to religion or the Church would have been incidental. *Widmar v. Vincent*, 454 U. S. 263, 271-272. Nor is there anything in the record to support the claim that the exclusion was justified on the ground that allowing access to a ``radical" church would lead to threats of public unrest and violence. In addition, the Court of Appeals' judgment was not based on the justification proffered here that the access rules' purpose is to promote the interests of the general public rather than sectarian or other private interests. Moreover, that there was no express finding below that the Church's application would have been granted absent the religious connection is beside the point for the purposes of this opinion, which is concerned with the validity of the stated reason for denying the application, namely, that the film appeared to be church related. Pp. 10-12.

959 F. 2d 381, reversed.

WHITE, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and BLACKMUN, STEVENS, O'CONNOR, and SOUTER, JJ., joined. KENNEDY, J., filed an opinion concurring in part and concurring in the judgment. SCALIA, J., filed an opinion concurring in the judgment, in which THOMAS, J., joined.