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Federal judge declares Pledge unconstitutional

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SAN FRANCISCO - A federal judge declared the reciting of the Pledge of Allegiance in public schools unconstitutional Wednesday in a case brought by the same atheist whose previous battle against the words "under God" was rejected by the U.S. Supreme Court on procedural grounds.

U.S. District Judge Lawrence Karlton ruled that the pledge's reference to one nation "under God" violates school children's right to be "free from a coercive requirement to affirm God."

Karlton said he was bound by precedent of the 9th U.S. Circuit Court of Appeals, which in 2002 ruled in favor of Sacramento atheist Michael Newdow that the pledge is unconstitutional when recited in public schools.

The Supreme Court dismissed the case last year, saying Newdow lacked standing because he did not have custody of his elementary school daughter he sued on behalf of.

Newdow, an attorney and a medical doctor, filed an identical case on behalf of three unnamed parents and their children. Karlton said those families have the right to sue.

Karlton, ruling in Sacramento, said he would sign a restraining order preventing the recitation of the pledge at the Elk Grove Unified, Rio Linda and Elverta Joint Elementary school districts, where the plaintiffs' children attend.

The decision sets up another showdown over the pledge in schools, at a time when the makeup of the Supreme Court is in flux.

Wednesday's ruling comes as Supreme Court nominee John Roberts faces day three of his confirmation hearings before the Senate Judiciary Committee. He would succeed the late William H. Rehnquist as chief justice.

Sandra Day O'Connor stepped down from the Supreme Court in July.

The Becket Fund, a religious rights group that is a party to the case, said it would immediately appeal the case to the San Francisco-based 9th U.S. Circuit Court of Appeals. If the court does not change its precedent, the group would go to the Supreme Court.

"It's a way to get this issue to the Supreme Court for a final decision to be made," said fund attorney Jared Leland.

Newdow, reached at his home, was not immediately prepared to comment.

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