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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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GOOD NEWS CLUB ET AL. *v.* MILFORD CENTRAL SCHOOL

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

No. 99–2036. Argued February 28, 2001– Decided June 11, 2001

Under New York law, respondent Milford Central School (Milford) enacted a policy authorizing district residents to use its building after school for, among other things, (1) instruction in education, learning, or the arts and (2) social, civic, recreational, and entertainment uses pertaining to the community welfare. Stephen and Darleen Fournier, district residents eligible to use the school's facilities upon approval of their proposed use, are sponsors of the Good News Club, a private Christian organization for children ages 6 to 12. Pursuant to Milford's policy, they submitted a request to hold the Club's weekly afterschool meetings in the school. Milford denied the request on the ground that the proposed use– to sing songs, hear Bible lessons, memorize scripture, and pray– was the equivalent of religious worship prohibited by the community use policy. Petitioners (collectively, the Club), filed suit under 42 U. S. C. §1983, alleging, *inter alia*, that the denial of the Club's application violated its free speech rights under the First and Fourteenth Amendments. The District Court ultimately granted Milford summary judgment, finding the Club's subject matter to be religious in nature, not merely a discussion of secular matters from a religious perspective that Milford otherwise permits. Because the school had not allowed other groups providing religious instruction to use its limited public forum, the court held that it could deny the Club access without engaging in unconstitutional viewpoint discrimination. In affirming, the Second Circuit rejected the Club's contention that Milford's restriction was unreasonable, and held that, because the Club's subject matter was quintessentially religious and its activities fell outside the bounds of pure moral and character development, Milford's policy was constitu-

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tional subject discrimination, not unconstitutional viewpoint discrimination.

Held:

1. Milford violated the Club's free speech rights when it excluded the Club from meeting after hours at the school. Pp. 5–11.

(a) Because the parties so agree, this Court assumes that Milford operates a limited public forum. A State establishing such a forum is not required to and does not allow persons to engage in every type of speech. It may be justified in reserving its forum for certain groups or the discussion of certain topics. *E.g., Rosenberger* v. *Rector and Visitors of Univ. of Va.,* 515 U. S. 819, 829. The power to so restrict speech, however, is not without limits. The restriction must not discriminate against speech based on viewpoint, *ibid.,* and must be reasonable in light of the forum's purpose, *Cornelius* v. *NAACP Legal Defense & Ed. Fund, Inc.,* 473 U. S. 788, 806. Pp. 5–6.

(b) By denying the Club access to the school's limited public forum on the ground that the Club was religious in nature, Milford discriminated against the Club because of its religious viewpoint in violation of the Free Speech Clause. That exclusion is indistinguishable from the exclusions held violative of the Clause in *Lamb's Chapel* v. *Center Moriches Union Free School Dist.,* 508 U. S. 384, where a school district precluded a private group from presenting films at the school based solely on the religious perspective of the films, and in *Rosenberger,* where a university refused to fund a student publication because it addressed issues from a religious perspective. The only apparent difference between the activities of Lamb's Chapel and the Club is the inconsequential distinction that the Club teaches moral lessons from a Christian perspective through live storytelling and prayer, whereas Lamb's Chapel taught lessons through films. *Rosenberger* also is dispositive: Given the obvious religious content of the publication there at issue, it cannot be said that the Club's activities are any more "religious" or deserve any less Free Speech Clause protection. This Court disagrees with the Second Circuit's view that something that is quintessentially religious or decidedly religious in nature cannot also be characterized properly as the teaching of morals and character development from a particular viewpoint. What matters for Free Speech Clause purposes is that there is no logical difference in kind between the invocation of Christianity by the Club and the invocation of teamwork, loyalty, or patriotism by other associations to provide a foundation for their lessons. Because Milford's restriction is viewpoint discriminatory, the Court need not decide whether it is unreasonable in light of the forum's purposes. Pp. 6–11.

2. Permitting the Club to meet on the school's premises would not have violated the Establishment Clause. Establishment Clause de-

fenses similar to Milford's were rejected in *Lamb's Chapel, supra,* at 395– where the Court found that, because the films would not have been shown during school hours, would not have been sponsored by the school, and would have been open to the public, not just to church members, there was no realistic danger that the community would think that the district was endorsing religion– and in *Widmar* v. *Vincent,* 454 U. S. 263, 272–273, and n. 13– where a university's forum was already available to other groups. Because the Club's activities are materially indistinguishable from those in *Lamb's Chapel* and *Widmar,* Milford's reliance on the Establishment Clause is unavailing. As in *Lamb's Chapel,* the Club's meetings were to be held after school hours, not sponsored by the school, and open to any student who obtained parental consent, not just to Club members. As in *Widmar,* Milford made its forum available to other organizations. The Court rejects Milford's attempt to distinguish those cases by emphasizing that its policy involves elementary school children who will perceive that the school is endorsing the Club and will feel coerced to participate because the Club's activities take place on school grounds, even though they occur during nonschool hours. That argument is unpersuasive for a number of reasons. (1) Allowing the Club to speak on school grounds would ensure, not threaten, neutrality toward religion. Accordingly, Milford faces an uphill battle in arguing that the Establishment Clause compels it to exclude the Club. See, *e.g., Rosenberger, supra,* at 839. (2) To the extent the Court considers whether the community would feel coercive pressure to engage in the Club's activities, cf. *Lee* v. *Weisman,* 505 U. S. 577, 592–593, the relevant community is the parents who choose whether their children will attend Club meetings, not the children themselves. (3) Whatever significance it may have assigned in the Establishment Clause context to the suggestion that elementary school children are more impressionable than adults, cf., *e.g., id.,* at 592, the Court has never foreclosed private religious conduct during nonschool hours merely because it takes place on school premises where elementary school children may be present. *Lee, supra,* at 592, and *Edwards* v. *Aguillard,* 482 U. S. 578, 584, distinguished. (4) Even if the Court were to consider the possible misperceptions by schoolchildren in deciding whether there is an Establishment Clause violation, the facts of this case simply do not support Milford's conclusion. Finally, it cannot be said that the danger that children would misperceive the endorsement of religion is any greater than the danger that they would perceive a hostility toward the religious viewpoint if the Club were excluded from the public forum. Because it is not convinced that there is any significance to the possibility that elementary school children may witness the Club's activities on school premises, the Court can find no reason to depart from

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Lamb's Chapel and *Widmar*. Pp. 12–20.

3. Because Milford has not raised a valid Establishment Clause claim, this Court does not address whether such a claim could excuse Milford's viewpoint discrimination. Pp. 12, 20.

202 F. 3d 502, reversed and remanded.

THOMAS, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and O'CONNOR, SCALIA, and KENNEDY, JJ., joined, and in which BREYER, JJ., joined in part. SCALIA, J., filed a concurring opinion. BREYER, J., filed an opinion concurring in part. STEVENS, J., filed a dissenting opinion. SOUTER, J., filed a dissenting opinion, in which GINSBURG, J., joined.