

STEVENS, J., concurring

**SUPREME COURT OF THE UNITED STATES**

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No. 95-2074  
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CITY OF BOERNE, PETITIONER v. P. F. FLORES,  
ARCHBISHOP OF SAN ANTONIO, AND  
UNITED STATES

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE FIFTH CIRCUIT

[June 25, 1997]

JUSTICE STEVENS, concurring.

In my opinion, the Religious Freedom Restoration Act of 1993 (RFRA) is a “law respecting an establishment of religion” that violates the First Amendment to the Constitution.

If the historic landmark on the hill in Boerne happened to be a museum or an art gallery owned by an atheist, it would not be eligible for an exemption from the city ordinances that forbid an enlargement of the structure. Because the landmark is owned by the Catholic Church, it is claimed that RFRA gives its owner a federal statutory entitlement to an exemption from a generally applicable, neutral civil law. Whether the Church would actually prevail under the statute or not, the statute has provided the Church with a legal weapon that no atheist or agnostic can obtain. This governmental preference for religion, as opposed to irreligion, is forbidden by the First Amendment. *Wallace v. Jaffree*, 472 U. S. 38, 52-55 (1985).