

07-665 PLEASANT GROVE CITY, UT, ET AL V. SUMMUM

DECISION BELOW:483 F3d 1044

LOWER COURT CASE NUMBER: 06-4057

QUESTIONS PRESENTED:

Petitioner Pleasant Grove City owns and displays a number of monuments, memorials, and other objects in a municipal park. Respondent Summum sued in federal court, contending that because the city had accepted monuments donated by local civic groups, the First Amendment compels the city to accept and display Summum's "Seven Aphorisms" monument as well. The district court denied Summum's request for a preliminary injunction, but a panel of the Tenth Circuit reversed, holding that the city must immediately erect and display Summum's monument. The Tenth Circuit then denied the city's petition for rehearing en banc by an equally divided, 6-6 vote. The questions presented are:

1. Did the Tenth Circuit err by holding, in conflict with the Second, Third, Seventh, Eighth, and D.C. Circuits, that a monument donated to a municipality and thereafter owned, controlled, and displayed by the municipality is not government speech but rather remains the private speech of the monument's donor?
2. Did the Tenth Circuit err by ruling, in conflict with the Second, Sixth, and Seventh Circuits, that a municipal park is a public forum under the First Amendment for the erection and permanent display of monuments proposed by private parties?
3. Did the Tenth Circuit err by ruling that the city must immediately erect and display Summum's "Seven Aphorisms" monument in the city's park?

CERT. GRANTED 3/31/2008