

SCALIA, J., concurring

SUPREME COURT OF THE UNITED STATES

No. 03–1500

THOMAS VAN ORDEN, PETITIONER *v.* RICK PERRY,
IN HIS OFFICIAL CAPACITY AS GOVERNOR OF TEXAS
AND CHAIRMAN, STATE PRESERVATION
BOARD, ET AL.

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

[June 27, 2005]

JUSTICE SCALIA, concurring.

I join the opinion of THE CHIEF JUSTICE because I think it accurately reflects our current Establishment Clause jurisprudence—or at least the Establishment Clause jurisprudence we currently apply some of the time. I would prefer to reach the same result by adopting an Establishment Clause jurisprudence that is in accord with our Nation’s past and present practices, and that can be consistently applied—the central relevant feature of which is that there is nothing unconstitutional in a State’s favoring religion generally, honoring God through public prayer and acknowledgment, or, in a nonproselytizing manner, venerating the Ten Commandments. See *McCreary County v. American Civil Liberties Union of Ky.*, *post*, at 1–11 (SCALIA, J., dissenting).