



Media Coalition Lauds Landmark Supreme Court Decision Upholding Free Speech Rights

Government Sought Unprecedented Speech Ban in Closely Watched Dogfighting Video Case

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WASHINGTON, DC – Saying that a law banning depictions of animal cruelty “created a criminal prohibition of alarming breadth,” the U.S. Supreme Court today in a nearly unanimous 8-1 vote rejected the government’s attempt to create a dangerous new exception to the First Amendment.

Media Coalition, a trade association that defends the First Amendment rights of mainstream media, lauded the ruling, saying that filmmakers, photographers, booksellers, and many other creative professionals were breathing a sigh of relief today. Media Coalition had filed a brief in the case, written by Jonathon Bloom of Weil, Gotschal & Manges, and also played a key role in soliciting briefs from a diverse constituency including journalists, pet owners, and hunting groups.

“As the Court today recognized, giving the government ‘freewheeling authority’ to judge the social worth of words and images is a dangerous proposition,” said David Horowitz, Executive Director of Media Coalition. “This landmark ruling affirms that First Amendment protections are not subject to balancing tests or limited to speech with so-called serious value.”

The government’s interpretation of the law in *U.S. v. Stevens, No. 08-769*, sought to give federal officials substantial power to decide whether certain words and images are worthy of First Amendment protection, using a “balancing test” that weighed the value of the speech against purported “societal costs.” In an opinion authored by Chief Justice John G. Roberts Jr., the Court soundly rejected that proposition, saying that “[a]s a free-floating test for First Amendment coverage, that idea is startling and dangerous.”

The Justices thus rightly declined to carve out a new exception to free expression rights by placing depictions of animal cruelty among the few, narrowly-defined categories of unprotected speech. As Chief Justice Roberts put it: “Despite the government’s assurance that it will apply [the law] to reach only ‘extreme’ cruelty, this Court will not uphold an unconstitutional statute merely because the Government promises to use it responsibly.”

At issue in *U.S. v. Stevens* was a 1999 federal law that made it a crime to create, sell or possess videos and other depictions of cruelty to animals. Violators were subject to up to five years in prison for each count as well as unspecified fines.

The case arose when Virginia resident and published author Robert J. Stevens, 68, was sentenced to 37 months in prison in 2004 by a federal court in Pennsylvania for selling videos that showed pit bulls fighting and training to hunt wild boar. As the Court today noted, the issue was not about banning dogfighting but about banning depictions of any kind of cruelty to animals, including legal activities such as hunting. Much of the footage in Stevens’ videos is more than 30 years old or comes from foreign sources where dogfighting is legal

The Third Circuit Court of Appeals overturned Stevens’ conviction in 2008, ruling that the law violated the First Amendment. The case was argued before the Justices last October, engendering numerous lively exchanges about hypothetical material that might be banned under the government’s theory of the law. In the end, however, only Justice Alito as the lone dissenter continued to maintain that the government could legitimately balance free speech against purported “societal costs.”

“It is clear from the opinion and the size of the majority that the Court heard the many voices concerned about this law,” said David Horowitz. “The amicus briefs demonstrated that this law put at risk a broad range of newspaper articles, films, books, and images of hunting and wasn’t limited to dogfighting videos.”

The 15 groups that signed on to the Media Coalition brief are: The Association of American Publishers, Inc., The American Booksellers Foundation for Free Expression, The Association of American University Presses, The Comic Book Legal Defense Fund, The Entertainment Consumers Association, Entertainment Merchants Association, Film Independent, The Freedom to Read Foundation, Independent Book Publishers Association, Independent Film & Television Alliance, Independent Filmmaker Project, International Documentary Association, The National Association of Recording Merchandisers, The National Association of Theatre Owners, Inc., and PEN American Center.

Background on the case, including the Media Coalition brief, is available online at www.mediacoalition.org.

Media Coalition, Inc., founded in 1973, is an association that defends the First Amendment right to produce and sell books, movies, magazines, recordings, DVDs, videotapes, and video games, and defends the American public's First Amendment right to have access to the broadest possible range of opinion and entertainment.

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