



SUPREME COURT

On March 24, the Supreme Court unanimously dismissed a lawsuit by a community college board member who claimed the formal censure he received from his colleagues was an action forbidden by the First Amendment as it was undertaken by a governmental body.

In his unanimously joined majority opinion in *Houston Community College System v. Wilson*, 596 U.S. ____ (2022), Justice Neil Gorsuch wrote that the other members of the Houston Community College’s board were within their rights to censure David Wilson, just as he was within his rights to criticize their actions.

Wilson’s actions leading to censure included accusing his fellow board members of corruption and hiring a private investigator to ascertain where another board member lived.

“The censure did not prevent Mr. Wilson from doing his job, it did not deny him any privilege of office, and Mr. Wilson does not allege it was defamatory,” wrote Gorsuch. “We do not see how the board’s censure could have materially deterred an elected official like Mr. Wilson from exercising his own right to speak.”

Gorsuch stated that “argument and counterargument” and not litigation are the appropriate tools for resolving disagreements.

Reported in: *Washington Post*, March 24, 2022.

CIVIL RIGHTS Nationwide

On March 22, Judge Richard Whitney ruled that the First Amendment does not protect “racial threats, advocacy of violence towards minority groups, vulgar speech, [or] speech that promotes killing other minority groups.”

The ruling was made in a gun violence restraining order case in which San Diego police detectives alleged Timothy Caruthers, Jr., made racist

and threatening posts on Instagram in 2020 and 2021 and should subsequently be barred from owning a firearm for up to five years.

Caruthers’ attorneys argued the case should be dismissed as he was acting within his First Amendment rights.

“The purchase of a semi-automatic handgun, combined with the evidence of very egregious racial threats,” wrote Whitney, “are not considered constitutionally protected speech under the First Amendment.”

The decision was not appealed and the gun violence restraining order case was settled in a plea agreement. The order will remain in effect until July 29, 2023.

Reported in: CBS8, March 28, 2022.

Colorado

On March 25, jurors found that police officers used excessive force against 12 plaintiffs during demonstrations over the killing of George Floyd and awarded them \$14 million in damages from the city and county of Denver.

The jury of the civil case *Epps v. City and County of Denver*, 1:20-cv-01878-RBJ in the U.S. District Court of Colorado found that the city and county failed to provide proper training and the officers violated the plaintiffs’ First and Fourth Amendment rights.

According to the complaint filed by ACLU—Colorado, police shot at the plaintiffs at close range and without warning. One protester went to the I.C.U. after a projectile hit him in the head and knocked him unconscious. Another plaintiff was sprayed in the face with pepper spray without warning. Police also deployed tear gas on protesters.

Reported in: *New York Times*, March 26, 2022.

Kentucky

On March 18, U.S. District Judge David Bunning ruled that former county clerk Kim Davis knowingly violated the civil rights of same-sex couples by denying them marriage licenses in 2015.

The two couples in the lawsuit were denied marriage licenses shortly after the landmark 2015 U.S. Supreme Court decision *Obergefell v. Hodges*, 576 U.S. ____ (2015) established that the fundamental right to marry is guaranteed to same-sex couples.

Bunning’s ruling in *Ermold v. Davis 0:15-cv-00046-DLB-EBA* clears the way for David Ermold and April Miller’s separate suits against Davis to proceed.

Reported in: *Reuters*, March 19, 2022.

NET NEUTRALITY California

On January 28, the 9th Circuit Court of Appeals rejected a challenge from telecom and broadband industry groups to block California’s net neutrality law in a 3-0 ruling.

The panel ruled that owing to a reclassification made during Donald Trump’s presidency, the FCC “no longer has the authority to regulate in the same manner that it had when these services were classified as telecommunication services.”

The 2018 law barred internet service providers from blocking or throttling traffic, or offering paid “fast lanes.” It went into effect in 2021 after the Justice Department withdrew their challenge to it in February 2021, prompting the Eastern District of California to refuse to block the law.

The FCC had previously adopted net neutrality provisions during the Obama administration in 2015, however these were overturned in 2017 during the Trump administration.

Reported in: *Reuters*, February 23, 2021, and January 28, 2022.