

Facts and Case Summary - Texas v. Johnson

Facts and case summary for *Texas v. Johnson*, 491 U.S. 397 (1989). Flag burning constitutes symbolic speech that is protected by the First Amendment.

Facts

Gregory Lee Johnson burned an American flag outside of the convention center where the 1984 Republican National Convention was being held in Dallas, Texas. Johnson burned the flag to protest the policies of President Ronald Reagan. He was arrested and charged with violating a Texas statute that prevented the desecration of a venerated object, including the American flag, if such action were likely to incite anger in others. A Texas court tried and convicted Johnson. He appealed, arguing that his actions were "symbolic speech" protected by the First Amendment. The Supreme Court agreed to hear his case.

Issue

Whether flag burning constitutes "symbolic speech" protected by the First Amendment.

Ruling

Yes.

Reasoning (5-4)

The majority of the Court, according to Justice William Brennan, agreed with Johnson and held that flag burning constitutes a form of "symbolic speech" that is protected by the First Amendment. The majority noted that freedom of speech protects actions that society may find very offensive, but society's outrage alone is not justification for suppressing free speech.

In particular, the majority noted that the Texas law discriminated upon viewpoint, i.e., although the law punished actions, such as flag burning, that might arouse anger in others, it specifically exempted from prosecution actions that were respectful of venerated objects, e.g., burning and burying a worn-out flag. The majority said that the government could not discriminate in this manner based solely upon viewpoint.

Dissent

Justice Stevens

Writing for the dissent, Justice Stevens argued that the flag's unique status as a symbol of national unity outweighed "symbolic speech" concerns, and thus, the government could lawfully prohibit flag burning.

Obama Signs Equal-Pay Legislation

<https://www.nytimes.com/2009/01/30/us/politics/30ledbetter-web.html>



President Obama signed his first bill into law on Thursday, approving the Lilly Ledbetter Fair Pay Act, a law named for Ms. Ledbetter, fourth from left, an Alabama woman who at the end of a 19-year career as a supervisor in a tire factory complained that she had been paid less than men. Credit...Stephen Crowley/The New York Times

By [Sheryl Gay Stolberg](#)

- Jan. 29, 2009

WASHINGTON — President Obama signed his first bill into law on Thursday, approving equal-pay legislation that he said would “send a clear message that making our economy work means making sure it works for everybody.”

Mr. Obama was surrounded by a group of beaming lawmakers, most but not all of them Democrats, in the East Room of the White House as he affixed his signature to the Lilly Ledbetter Fair Pay Act, a law named for an Alabama woman who at the end of a 19-year career as a supervisor in a tire factory complained that she had been paid less than men.

After a Supreme Court ruling against her, Congress approved the legislation that expands workers’ rights to sue in this kind of case, relaxing the statute of limitations.

“It is fitting that with the very first bill I sign —the Lilly Ledbetter Fair Pay Act —we are upholding one of this nation’s first principles: that we are all created equal and each deserve a chance to pursue our own version of happiness,” the president said.

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Now 70, Ms. Ledbetter discovered when she was nearing retirement that her male colleagues were earning much more than she was. A jury found her employer, the Goodyear Tire and Rubber Company plant in Gadsden, Ala., guilty of pay discrimination. But in a 5-4 decision, the Supreme Court threw out the case, ruling that she should have filed her suit within 180 days of the date that Goodyear first paid her less than her peers.

Congress tried to pass a law that would have effectively overturned the decision while President George W. Bush was still in office, but the White House opposed the bill; opponents contended it would encourage lawsuits and argued that employees could delay filing their claims in the hope of reaping bigger rewards. But the new Congress passed the bill, which restarts the six-month clock every time the worker receives a paycheck .

Ms. Ledbetter will not see any money as a result of the legislation Mr. Obama signed into law. But what she has gotten, aside from celebrity, is personal satisfaction, as she said in the State Dining Room after the signing ceremony.

“Goodyear will never have to pay me what it cheated me out of,” she said. “In fact, I will never see a cent. But with the president’s signature today I have an even richer reward.”

October 23, 2015

Obama vetoes defense bill, sends it back to Congress

<https://www.reuters.com/article/us-usa-fiscal-defense/obama-vetoes-defense-bill-sends-it-back-to-congress-idUSKCN0SG2LF20151023>

By [Patricia Zengerle](#), [Julia Edwards](#)

WASHINGTON (Reuters) - President Barack Obama vetoed a sweeping \$612 billion defense policy bill on Thursday, returning the measure to the Republican-controlled Congress because of the way it uses money meant for war spending to avoid automatic budget cuts to military programs.

“I’m going to be sending it back to Congress and my message to them is very simple: ‘Let’s do this right,’” Obama told reporters.

“We’re in the midst of budget discussions. Let’s have a budget that properly funds our national security as well as economic security,” he said.

Obama also said he disagreed with provisions in the National Defense Authorization Act (NDAA) that would have limited his ability to close the Guantanamo Bay detention center before he leaves office in January 2017.

“Guantanamo is one of the premier mechanisms for jihadists to recruit,” he told reporters at a rare White House veto signing ceremony.

“It’s time for us to close it. It’s outdated, it’s expensive, it’s been there for years. We can do better in terms of keeping Americans safe while making sure that we are consistent with our values,” he said.

Closing the controversial military prison camp was a main promise of Obama’s first presidential campaign, in 2008.

Obama and many of his fellow Democrats want a broader budget deal that would address mandatory cuts in domestic spending rather than only providing more funds for the Pentagon.

Republicans argue that the military should be spared many of the so-called sequestration budget cuts to ensure national security. They accuse Democrats of using the issue to camouflage a desire for irresponsible domestic spending.

“By placing domestic politics ahead of our troops, President Obama has put America’s national security at risk,” John Boehner, the Republican speaker of the House of Representatives, said in a statement.

Republicans have vowed to override the veto, only the fifth of Obama’s presidency, which would require two-thirds majorities in both the House and Senate.

Nancy Pelosi, the House Democratic leader, insists the House will sustain it.

Under congressional rules, the House will consider the veto before the Senate. A vote has been scheduled for Nov. 5.

Democrats insisted a better NDAA would pass easily if the veto is sustained.

“Hopefully we can work together to pass a more balanced and responsible NDAA that truly provides our troops with the resources and budget stability they need,” said Senator Jack Reed, the top Senate Armed Services Committee Democrat.

[Healthcare](#)

July 15, 2008 11:44

<https://www.reuters.com/article/us-bush-medicare-idUSN1529466020080715>

Congress overrides Bush's Medicare veto

By [Donna Smith](#), [Richard Cowan](#)

WASHINGTON (Reuters) - In what likely is the last big showdown between President George W. Bush and congressional Democrats over the popular Medicare health care program, the U.S. Congress on Tuesday voted to override his veto of a bill to keep doctors' payments from being slashed.

President George W. Bush holds a news conference in the briefing room of the White House in Washington July 15, 2008. REUTERS/Kevin Lamarque

By enacting the measure over Bush's objections, Congress rescinded an 11 percent reduction in government payments to doctors treating elderly Medicare patients.

Just hours after Bush vetoed the legislation, the Senate voted 70-26 to overturn him, following the House of Representatives, which voted 383-41 to override. The bill now becomes law.

Twenty-one Republicans in the Senate and 153 in the House broke ranks with Bush and joined majority Democrats to overturn the veto in this election-year vote.

Supporters of the legislation argued that the scheduled 11 percent pay cut for doctors would discourage many of them from taking on Medicare patients.

The bill would offset the cost to the government of restoring the doctors' pay by cutting payments to big insurers, such as UnitedHealth Group Inc and Aetna Inc, which have contracts with the Medicare program.

Democrats argued that those contracts with private health care plans, which were encouraged in the 2003 legislation creating a new government drug benefit for the elderly, cost more than providing health coverage under the traditional Medicare program.

They also argued that more generous subsidies to private health plans threaten to undermine the traditional Medicare program.

MESSAGE TO BUSH

"Let's send a message to the president his days of doing us harm are very, very limited," said House Ways and Means Committee Chairman Charles Rangel, a New York Democrat.

Over the years, Democrats and Bush have clashed over his proposed budget cuts for Medicare and the huge new prescription drug benefit he pushed through Congress in 2003.

Tuesday's votes marked the fourth time in his two terms that Bush has had a veto overturned by Congress. Bush has vetoed 12 bills during nearly eight years as president. Nearly all of those vetoes were since Democrats gained their congressional majority in 2007.

Bush said the \$13 billion in reimbursement cuts to insurers will discourage program participation and reduce choices for the elderly.

"I support the primary objective of this legislation, to forestall reductions in physician payments. Yet taking choices away from seniors to pay physicians is wrong. This bill is objectionable, and I am vetoing it," Bush said in a statement to the House.

Doctors and the seniors' group AARP supported the bill and waged an aggressive lobbying effort to prevent the doctors' pay cut. The legislation was approved by Congress last week with strong bipartisan support.

The AARP issued a statement on Tuesday saying it will make sure its 39 million members get information on how lawmakers voted on the veto override.

"This bill will improve Medicare for the 44 million Americans who depend on it for quality, affordable health care," said Nancy LeaMond, AARP's executive vice president.

The bill is a temporary measure designed to stop the pay cut for doctors and give Congress and the next president, who takes office January 20, 2009, time to review broader issues surrounding Medicare. The health care program faces growing financial strains as the 77 million baby boom generation retires and begins to draw on government benefits.

US Congress overrides Trump veto for first time

<https://www.bbc.com/news/world-us-canada-55510151>

Published 1 January

The US Congress has overturned President Donald Trump's veto of a defence spending bill, the first time this has happened in his presidency.

The Republican-controlled Senate held a rare New Year's Day session to debate the move, which had already been voted for by the House of Representatives.

The \$740bn (£549bn) bill will fund defence policy for the year to come.

Mr Trump, who leaves office in a few weeks, objected to certain provisions in the bill.

The Senate voted 81-13 for the National Defense Authorization Act (NDAA) - a two-thirds majority is required to override a presidential veto in both chambers.

It comes just two days before a new US Congress is due to be sworn in.

Mr Trump had taken issue with policies that limit troop withdrawals from Afghanistan and Europe and remove Confederate leaders' names from military bases.

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Before the debate began, Senate Republican leader Mitch McConnell said he was determined to pass the bill.

"Here's what the Senate is focused on - completing the annual defence legislation that looks after our brave men and women who volunteer to wear the uniform."

"We've passed this legislation 59 years in a row. And one way or another, we're going to complete the 60th annual NDAA and pass it into law before this Congress concludes on Sunday," he added.

Later Mr Trump responded to the vote specifically on the issue of liability protection.

"Our Republican Senate just missed the opportunity to get rid of Section 230, which gives unlimited power to Big Tech companies. Pathetic!!!" he said on Twitter.

Why did Congress have to make this move?

Bills passed by Congress need a president's signature to become law. On rare occasions, a president may choose to veto - or reject - legislation because of some policy disagreement.

Lawmakers can override a presidential veto and enact bills into law by mustering two-thirds of votes in both chambers of Congress.

House Speaker Nancy Pelosi, the most powerful congressional Democrat, said Mr Trump's veto was "an act of staggering recklessness that harms our troops, endangers our security and undermines the will of the bipartisan Congress".

"In a time when our country was just targeted with a massive cyber-attack, it is particularly hard to understand the reasoning behind the president's irresponsibility," she said in a statement.

Ahead of Wednesday's veto, some of the outgoing president's advisers had cautioned him against rejecting the bill.

Mr Trump has previously vetoed eight bills, vetoes which were all upheld with support from his fellow Republicans in Congress.

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Federal judge blocks Trump's third travel ban

https://www.washingtonpost.com/world/national-security/federal-judge-blocks-trumps-third-travel-ban/2017/10/17/e73293fc-ae90-11e7-9e58-e6288544af98_story.html

By Matt Zapposky
October 17, 2017

A federal judge on Tuesday largely blocked the Trump administration from implementing the latest version of the president's controversial travel ban, setting up yet another legal showdown on the extent of the executive branch's powers when it comes to setting immigration policy.

The decision from U.S. District Judge Derrick K. Watson in Hawaii is sure to be appealed, but for now, it means that the administration cannot restrict the entry of travelers from six of the eight countries that officials said were unable or unwilling to provide information that the United States wanted to vet the countries' citizens.

The latest ban was set to go fully into effect in the early hours of Wednesday, barring various types of travelers from Syria, Libya, Iran, Yemen, Chad, Somalia, North Korea and Venezuela. Watson's order stops it, at least temporarily, with respect to all the countries except North Korea and Venezuela.

In a 40-page decision granting the state of Hawaii's request for a temporary restraining order nationwide, Watson wrote that the latest ban "suffers from precisely the same maladies as its predecessor."

Watson also wrote that the executive order "plainly discriminates based on nationality" in a way that is opposed to federal law and "the founding principles of this Nation."

The White House said in a statement that Watson's "dangerously flawed" order "undercuts the President's efforts to keep the American people safe and enforce minimum security standards for entry into the United States."

"These restrictions are vital to ensuring that foreign nations comply with the minimum security standards required for the integrity of our immigration system and the security of our Nation," the White House said. "We are therefore confident that the Judiciary will ultimately uphold the President's lawful and necessary action and swiftly restore its vital protections for the safety of the American people."

The State Department said that it instructed embassies and consulates across the globe to resume regular processing of visas for people from the six countries but that it would implement the order for those affected from Venezuela and North Korea. Justice Department spokesman Ian Prior said government lawyers would appeal the judge's decision in an "expeditious manner."

"Today's ruling is incorrect, fails to properly respect the separation of powers, and has the potential to cause serious negative consequences for our national security," he said.

Opponents of the ban, though, hailed the judge's ruling. Hawaii Attorney General Douglas Chin said, "Today is another victory for the rule of law. We stand ready to defend it."

Omar Jadwat, who directs the ACLU's Immigrants' Rights Project and was involved in a separate challenge to the ban in federal court in Maryland, said, "We're glad, but not surprised, that President Trump's illegal and unconstitutional Muslim ban has been blocked once again."

Trump was blocked by courts from imposing his last two versions of the travel ban, but the ultimate question of whether he ever had the authority to implement such a measure remains somewhat murky.

The Supreme Court had been scheduled to hear arguments on his second travel ban, inked in March, which barred the entry of citizens from six majority-Muslim countries and refugees from everywhere. But a key portion of that ban expired and Trump issued his latest ban before the hearing.

That prompted the justices to remove oral arguments from the calendar. They later dismissed one of the challenges to the March version of the ban.

Federal appeals courts had ruled against the Trump administration on the last measure, and Watson relied in part on the precedent from one of those cases in the U.S. Court of Appeals for the 9th Circuit. The Supreme Court, though, had vacated the precedent from the other ruling that went against the administration in the U.S. Court of Appeals for the 4th Circuit.

The state of Hawaii, the International Refugee Assistance Project and others who sued over the March travel ban asked judges to block the new one in federal courts in Hawaii, Washington state and Maryland. They argued that Trump had exceeded his legal authority to set immigration policy and that the latest measure — like the last two — fulfilled his unconstitutional campaign promise to implement a Muslim ban. As of Tuesday afternoon, the judges in Maryland and Washington state had yet to rule, although arguments in Washington are scheduled for Oct. 30.

"It exceeds the limits on the President's exclusion authority that have been recognized for nearly a century, by supplanting Congress's immigration policies with the President's own unilateral and indefinite ban," the challengers in Hawaii wrote of the new ban. "And it continues to effectuate the President's unrepudiated promise to exclude Muslims from the United States."

Hawaii asked a judge to block the ban with respect to all the majority-Muslim countries; the state's lawyers did not challenge the measures imposed against Venezuela and North Korea.

Watson did not address whether the ban was constitutional; rather, he limited his analysis to whether Trump had exceeded the authority Congress has given the president to impose restrictions on those wanting to enter the United States. Of particular concern, he said, were that officials seemed to treat someone's nationality as an indicator of the threat the person poses — without providing evidence of a connection between the two.

Watson said that the order did "not reveal why existing law is insufficient to address the President's described concerns" and that it was internally flawed — for example, by exempting Iraq from the banned list even though Iraq failed the U.S. government's security assessment.

Legal analysts had said challengers of the latest travel ban would face an uphill battle, particularly because the measure was put into effect after an extensive process in which the United States negotiated with other countries for information.

Such a process, legal analysts said, presumably would help the government defeat arguments that the president had not made the appropriate findings to justify his order. The list of countries affected also was changed to include two countries that are not majority Muslim — Venezuela and North Korea — potentially helping the government argue that the measure was not meant to discriminate against Muslims.

Challengers to the ban, however, sought to link the new directive to its predecessors, and they asserted that even the additions were mainly symbolic. The ban only affects certain government officials from Venezuela, and very few people travel to the United States from North Korea each year. They noted that Trump himself promised a "larger, tougher, and more specific" ban — meaning that the new version would have the same legal problems as the earlier iterations....