

SPEAKING FREELY

A Publication of the Institute for Free Speech

SPRING 2025

VOL. 19 NO. 1

IFS.org

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From left: Plaintiffs Kevin Josefy and Dylan Brown reached a settlement in their case preserving First Amendment rights to the press in Oklahoma

Photo by: KFOR-TV

Oklahoma TV Station Wins Press Freedom Lawsuit

Institute for Free Speech attorneys win quick victory against state censorship

By Tom Garrett

After officials blocked only their reporters from attending state government proceedings, Oklahoma's oldest television station has now secured a victory for press freedom, obtaining a permanent injunction in December that ensures its reporters will have full access to state education meetings and officials. The permanent injunction was reached via settlement and came just before a trial and after the judge issued a temporary restraining order (TRO) in September, forcing the state to grant access.

The permanent injunction resolves

the First Amendment lawsuit filed by the Institute for Free Speech and local counsel Bob Nelon of Hall Estill on behalf of three reporters and their employer, the owner of Oklahoma City television station KFOR-TV, against Oklahoma Superintendent of Public Instruction Ryan Walters and Press Secretary Dan Isett. The permanent injunction in the case, *Nexstar Media, Inc. d/b/a KFOR-TV, et*

al. v. Ryan Walters, et al., guarantees KFOR equal access to State Board of Education meetings, press conferences, and other media events.

"This case presented a straightforward First Amendment issue," said Institute for Free Speech attorney Courtney Corbello. "When the government opens up limited forums for reporters, officials can't just use their unbridled discretion to decide who they want there and who they don't. The First Amendment protects the right of journalists to gather and report news, even—or especially—when the coverage scrutinizes government officials and holds them accountable to the public."

The permanent injunction requires the Oklahoma State Department of Education to restore KFOR's access to board meetings, press conferences, and media events. It also mandates KFOR's inclusion in all press distribution lists and advance notifications of department activities. Additionally, the department has been enjoined to re-establish a media line for journalists to attend board meetings.

"This permanent injunction means that KFOR can continue doing what

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ABOUT THIS PUBLICATION

Speaking Freely is a quarterly newsletter published by the Institute for Free Speech.

The Institute for Free Speech is a nonpartisan, non-profit 501(c)(3) organization that promotes and defends the political speech rights to freely speak, assemble, publish, and petition the government guaranteed by the First Amendment. Originally known as the Center for Competitive Politics, it was founded in 2005 by Bradley A. Smith, a former Chairman of the Federal Election Commission. The Institute is the nation's largest organization dedicated solely to protecting First Amendment political rights.

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From the President

The start of a new year—and a new presidential administration—brings both exciting opportunities and potential challenges in the fight to protect Americans' free speech rights. As ever, we'll remain vigilant in defending free political speech regardless of who holds power.

Building on the potential for positive change that comes with a new president, I recently argued in the *Wall Street Journal* for the creation of a task force focused on identifying and eliminating or reforming federal regulations that hamper political speech. Such executive action could meaningfully strengthen First Amendment protections.

Such progress would complement the great work the Institute for Free Speech has achieved in recent months. I'm pleased to report several significant victories that demonstrate the breadth of our impact. In Wyoming, we secured a decisive victory for Harry Pollak's right to criticize school officials at public meetings. The federal court's ruling sends a clear message that public bodies cannot use personnel policies to suppress dissent.

In Oklahoma, our litigation protected the First Amendment rights of KFOR-TV and its reporters, ensuring government officials cannot exclude journalists simply because those officials don't like the station's hard-hitting coverage.

Meanwhile, in Kansas, we successfully protected grassroots advocacy group Fresh Vision OP's right to engage in community advocacy without burdensome political committee (PAC) regulations. This was a vital win for free political speech that ensures citizens can come together and speak out on local issues without facing onerous regulations designed for campaign organizations.

These varied and consequential victories reflect our commitment to defending free speech across diverse contexts. Whether protecting parents' right to criticize school policies, journalists' ability to cover government meetings, or citizens' freedom to advocate for their communities, we're fighting to ensure Americans can express themselves without fear of censorship or retaliation.

We're also tackling new challenges. In Maine, we've filed suit to protect citizens' right to pool resources for political speech through independent expenditure groups. In Utah, we're defending an award-winning journalist against state officials who seemingly changed credentialing rules

to silence his critical coverage. And, in multiple states, we're working to strengthen anti-SLAPP protections that shield citizens from meritless lawsuits designed to suppress and chill speech on matters of public concern.



By David Keating

The Institute's impact continues to expand. With our largest-ever active caseload, we're litigating more extensively than at any point in our organization's history while simultaneously engaging with policymakers, educating the public, and providing expert analysis on emerging free speech issues.

And we remain committed to our nonpartisan mission of protecting First Amendment rights regardless of the prevailing political winds. With your continued support, we stand ready to succeed in that mission and to protect this fundamental right for all Americans.

Thank you for standing with us in defense of free speech.



CHARITY NAVIGATOR

Four Star Charity

The Institute has earned
Charity Navigator's top
rating of four stars.



RECENTLY IN THE MEDIA

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FOX NEWS

By Ryan Morik

School district defends decision to ban parents who wore 'XX' wristbands at daughters' game with trans athlete

11/30/24

Anthony Foote of Bow, New Hampshire, told the *New Hampshire Journal* he had received a notice of trespass from Bow and Dunbarton School Districts Superintendent Marcy Kelley after he had worn armbands in support of biological girls-only sports to his daughter's high school soccer game back in September.

Foote, his wife Nicole, Kyle Fellers, and Eldon Rash then filed a federal lawsuit against the Bow School District, Superintendent of Schools Marcy Kelley, Principal Matt Fisk, Athletic Director Mike Desilets, Bow Police Lieutenant Phil Lamy and soccer referee Steve Rossetti several days later.

The "silent protest" at Bow High School, the lawsuit says, intended to "show solidarity" with the Bow team and oppose a policy that allowed a transgender girl to play on Plymouth's team.

Forbes

By Jay Adkisson

Bipartisan Federal Anti-SLAPP Legislation Reintroduced And Improved

12/5/24

"Two-thirds of the states now have laws limiting frivolous lawsuits that seek censorship. Most pass with strong bipartisan support that is often nearly unanimous," said David Keating, President of the Institute for Free Speech. "It's time Congress caught up with the states. The Free Speech Protection Act addresses a critical gap in defending Americans' First Amendment rights. The state laws often don't apply in federal courts, so censors frequently file these abusive lawsuits there."

This legislation would ensure defendants can quickly end meritless, speech-suppressing lawsuits in federal court and recover their legal costs. The next Congress should move quickly to consider this important bill, which is an excellent starting point for protecting Americans from this threat to free speech..."

NEW HAMPSHIRE UNION LEADER

By Paul Feely

Plaintiffs in Nashua lawsuit over refusal to fly right-wing flags object to recent ruling

1/8/25

On October 7, 2024, during the pendency of this action, [Nashua] Mayor Donchess repealed the 2022 Flagpole Policy and any other previous policies related to the flagpoles outside City Hall," court paperwork states...

Nathan Ristuccia, an attorney for the Institute for Free Speech representing the Scaers, argued the repeal shows the city "tacitly recognizing" its old policy was unconstitutional.

"This abrupt change is a transparent attempt to avoid judicial scrutiny, but it cannot moot the Scaers' claim for injunctive relief," Ristuccia writes. "A defendant seeking to escape judgment based on his voluntary cessation 'bears the formidable burden of showing that it is absolutely clear the allegedly wrongful behavior could not reasonably be expected to recur.' Here, defendants repealed their 2022 policy to avoid flying flags they dislike."

Newsweek

By Shane Croucher

Should U.S. Ban Unabomber Manifesto?

David Keating, President, Institute for Free Speech

12/10/24

No, we shouldn't because it's a bad idea, and we can't because it would violate the First Amendment.

Attempting to ban the tract would ensure more read it because of the Streisand effect. Actress Barbra Streisand's attorneys tried to censor a photo of her mansion, which caused unprecedented attention to it instead.

And the command of the First Amendment is clear: the government can't ban publications except in narrow circumstances that don't apply to the Unabomber's manifesto.

Oklahoma TV Station Wins Press Freedom Lawsuit

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▶ we’ve done for 75 years: keeping Oklahomans well-informed about their state government,” said Dylan Brown, a KFOR reporter who was previously barred from reporting by Walters and Isett. “If the press freedom enshrined in the First Amendment means anything, it’s that our ability to cover issues of public concern shouldn’t depend on whether government officials dislike our reporting.”

The case began in September 2024 That news organization and its

when KFOR filed suit after being repeatedly denied access to board meetings and press conferences, sometimes being physically prevented from entering meeting spaces. The station had faced repeated denials of access throughout the year, including being physically blocked from entering meetings and press conferences on March 28th, June 27th, July 31st, and August 22nd.

KFOR secured an early victory when a federal judge granted a TRO, thoroughly rejecting officials’ rationale for excluding its journalists. In granting the TRO, the judge noted that the officials’ arguments were “little more than a ruse, masking an effort to punish a news organization for its editorial stance.”

reporters have now secured a final victory that restores their First Amendment rights to full strength. Just as important, the win also restores the public’s ability to be informed. 🏠



Tom Garrett
Chief Communications Officer

Ohio Enacts Anti-SLAPP Law; Pennsylvania’s Faces Federal Test

By Peter Russo

In a significant victory for free expression, Ohio has become the 35th state to enact anti-SLAPP (strategic lawsuits against public participation) protections through the Uniform Public Expression Protection Act (UPEPA). Governor Mike DeWine’s January signing of Senate Bill 237 creates crucial safeguards against lawsuits designed to censor speakers. The law enables defendants to challenge frivolous cases early in the legal process and recover fees and court costs if successful.

Meanwhile, Pennsylvania’s similar anti-SLAPP law faces an important test in federal court. Ten civil lib-

erties and media organizations, including the Institute for Free Speech, have filed an amicus brief in support of no party in *Salaam v. Trump*, arguing that Pennsylvania’s UPEPA should apply in federal court. The brief contends that limiting these protections to state courts would undermine the law’s effectiveness and encourage forum shopping.

These developments reflect a growing recognition of the need to protect free speech from intimidation through costly and meritless litigation. Both states’ laws safeguard citizens’ rights to speak freely on matters of public concern, whether

criticizing public officials, posting online reviews, reporting harassment, or participating in public meetings. The protections are particularly crucial in today’s digital age, where online communication serves as a primary forum for public debate. 🏠



Peter Russo
Director of External Relations

Lawsuit Challenges Maine Limit on Political Speech

A November ballot measure limited contributions to independent groups

By Tom Garrett

A new federal lawsuit seeks to stop a law adopted by voters in November from placing blatantly unconstitutional limits on Mainers' free speech rights.

Attorneys from the Institute for Free Speech filed a federal lawsuit in December on behalf of Dinner Table Action and For Our Future, two Maine political action committees (PACs), and Alex Titcomb, who leads both PACs.

The case challenges Maine's newly enacted restrictions on contributions to independent expenditure groups, sometimes called "Super PACs." The lawsuit also challenges unconstitutional requirements that force the disclosure of all donors who contribute toward independent expenditures, regardless of amount.

The new law imposes a \$5,000 limit on contributions to such groups. The measure directly contradicts established U.S. Supreme Court precedent. Moreover, all 30 federal appellate judges who have considered similar limits have reached the same conclusion: contribution limits cannot be applied to independent expenditure groups.

Meanwhile, the law's broad disclosure requirement threatens to chill the speech and damage the associational rights of donors who wish to maintain their privacy. The new law would force disclosure of all contributors to independent expenditures, regardless of amount. Multiple donors have told the plaintiffs that would stop them from participating in the political process. Such restrictions would have severe con-



Plaintiff Alex Titcomb is taking a stand to protect the free speech and privacy rights of Mainers

Photo by: Heidi Dunn

sequences for Mainers who wish to organize and exercise their political speech rights.

"This unconstitutional law would drastically reduce our ability to speak about candidates and issues that matter to Mainers," explained Alex Titcomb, Executive Director of Dinner Table Action.

The suit also notes the law's unequal treatment of PACs and party committees. While independent expenditure PACs would face strict contribution limits, party committees could continue to raise unlimited funds for the same purpose.

"This law is a direct attack on Mainers' fundamental constitutional rights," noted Charles "Chip" Miller, Senior Attorney at the Institute for Free Speech. "Not only does it violate their First Amendment right to organize and pool their resources for

political speech, but it also violates equal protection under the law by treating citizen groups worse than political party committees. A ballot measure cannot override these core constitutional protections."

Following negotiations with Institute attorneys, Maine agreed not to enforce the new restrictions while the case, *Dinner Table Action, et al. v. Schneider, et al.*, proceeds to trial in March, with a decision expected later in the spring. [🔗](#)



Tom Garrett
Chief Communications Officer

THE WALL STREET JOURNAL.

Trump Needs a DOGE for Free Speech

Root out regulations and practices that infringe on our First Amendment rights.

By David Keating

This article was originally published on December 9, 2024.



Phil Mistry/Shutterstock.com

Donald Trump promises to cut bureaucratic waste through the Department of Government Efficiency. He should apply the same approach to free speech. A task force, which he could name the Federal Initiative to Reduce Speech Threats, or First, could identify federal regulations and guidelines that harm speech or new rules that could protect it.

Such an initiative would have several obvious targets at the outset.

- *New rules for bureaucrats.* Federal law grants broad powers to executive-branch department leaders to regulate employees' conduct. The *Murthy v. Missouri* case helped expose how feder-

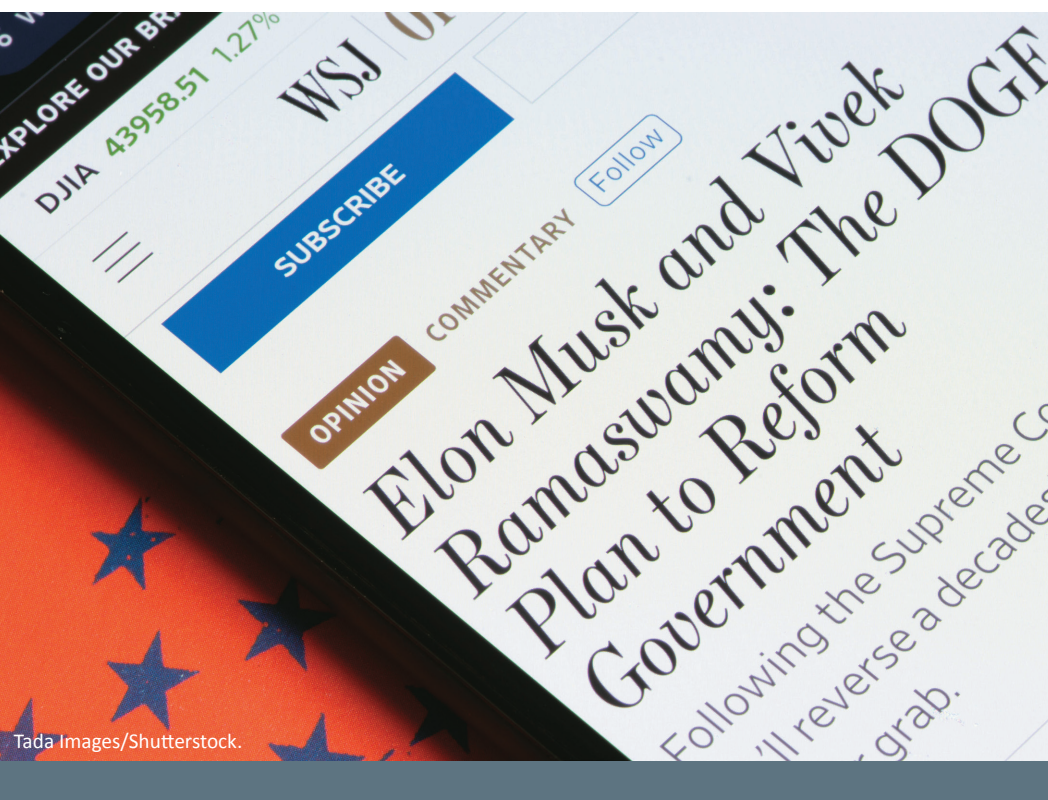
al employees facilitated censorship by social-media platforms. Mr. Trump's cabinet could write rules prohibiting such actions, enforceable by termination if necessary.

Regulations could also force disclosure of most government contacts with social-media organizations asking to take down third-party posts. After uprooting any remaining Biden "anti-disinformation" efforts, future ones could be barred by regulation.

- *Clarify the Johnson Amendment.* This law prohibits "the publishing" of statements by charities, foundations, and religious groups "on behalf of (or in opposition to) any candidate."

Everyone understands this bars such groups from endorsing or urging a vote against a candidate. But many fear the Internal Revenue Service would view harsh criticism of a candidate's policy proposals as a violation. The amendment thus gives IRS bureaucrats a weapon to target disfavored speech and has a chilling effect. We need clear regulations interpreting the vague law in a way that respects Supreme Court precedents on speech. The IRS guidance is murky, making the law unconstitutionally vague.

- *Repeal Securities and Exchange Commission limits on political donations.* The SEC imposes strict contribution limits on in-



vestment advisers—\$350 for candidates for whom they can vote and \$150 for other candidates. These rules, which have no clear basis in statute, need elimination or a total overhaul.

These impediments to free speech—and many others a task force would unearth—demand reform. Crucially, none of these changes would require congressional approval.

The Supreme Court declared that “where the First Amendment is implicated, the tie goes to the speaker, not the censor.” Federal agencies too often serve as censors, and First could prevent them from censoring again.

Abolishing or reforming speech-restricting regulations would expand Americans’ freedom to speak without fear of bureaucratic retaliation. That’s the type of shake-up Americans wanted when they voted for Mr. Trump.

Through the creation of DOGE, President-elect Trump has shown that he understands the need to reduce governmental waste and inefficiency. Creating a free-speech task force would demonstrate a commitment to protecting our most fundamental constitutional right and would create an enduring legacy for his second term.

This article was published in the *Wall Street Journal* on December 9, 2024.



David Keating
President

Building Global Understanding of Free Speech, One Creator at a Time

Chief Communications Officer Tom Garrett and Director of External Relations Peter Russo sat down with four prominent Egyptian social media creators last October to discuss American notions of free speech. The delegation, invited by the U.S. Department of State, was touring the United States as part of the “Social Media for Cultural Understanding and Positive Social Change” initiative.

These influential content creators, who operate in an exceedingly difficult media environment in Egypt—a country with significant speech and internet restrictions—sought insights from leading free speech advocates about expression rights in the U.S.

The Institute for Free Speech was their first stop to learn about internet freedom and free speech advocacy. The Egyptian delegates expressed surprise at the extensive protections guaranteed by the First Amendment, noting this knowledge would inform their discussions about social media’s role during their month-long U.S. tour.

These exchanges are invaluable opportunities to demonstrate how freedom of speech strengthens democracy, and our organization was honored to contribute to their understanding of these fundamental principles. 🇺🇸



Sarah Fisher
Associate Director of
Communications

WASHINGTON Examiner

Citizens United's gift to free speech

By Bradley A. Smith



In 2008, the non-profit organization Citizens United sought to distribute Hillary: The Movie, pictured here, and were threatened with legal action

Tuesday marked 15 years since the Supreme Court's landmark decision in *Citizens United v. Federal Election Commission*. The decision affirmed that people in the United States don't lose their First Amendment right to speak about candidates merely by organizing into corporations or unions.

The ruling sparked intense controversy, with critics predicting it would corrupt U.S. democracy and allow corporate money to dominate our elections. These dire warnings have been proven wrong.

Far from enabling a corporate takeover of U.S. politics, the ruling en-

abled free speech. Since the ruling, publicly traded corporations have accounted for approximately 2% of political spending. The predicted flood of corporate dollars simply never materialized. Instead, we've seen a surge in small-dollar donations and grassroots engagement.

The effect of small-dollar donors in recent election cycles refuted the doomsayers' predictions: President Donald Trump's 2016 campaign set records for small-donor fundraising despite being vastly outspent by rival Hillary Clinton. Former Vice President Kamala Harris raised close to half a *billion* dollars from small do-

nors in 2024. Also, refuting the most dire predictions, we've seen that money cannot buy electoral victory, as the billion-dollar presidential campaigns of Harris and billionaire Michael Bloomberg proved.

Citizens United ushered in an era of unprecedented electoral competitiveness. Since 2010, control of the White House and Congress has changed parties in nearly every federal election, a sharp contrast to the political entrenchment that preceded it. Previously "safe" incumbents, such as former Reps. Eric Cantor and Joe Crowley, fell to outsider challengers who spent far less, and incumbent reelection rates have

dropped below their pre-2010 levels of 94% or higher.

This heightened competition has energized voters. Midterm election participation surged to its highest level in a century in 2018, while the 2020 turnout was the highest for any presidential election since 1900. The 2022 midterm elections and 2024 presidential elections were close behind.

Too often, critics of *Citizens United* forget the problem at stake: Can the government prohibit an incorporated advocacy group from paying to advertise a documentary movie critical of a major presidential candidate?

The court rightly recognized that the restriction struck at the heart of the First Amendment.

Today, *Citizens United* stands as a victory, not for corporate interests but for the fundamental principle that the remedy for speech with which we disagree is more speech, not government regulation.

Fifteen years of experience has shown that *Citizens United*'s critics are wrong and its proponents are right. The decision has allowed new, often important voices to be heard while protecting people's right to hear those voices. *Citizens United* is one of the most important decisions

of the century for protecting, fostering, and benefiting U.S. democracy.

This article was published in the *Washington Examiner* on January 22, 2025.



Bradley A. Smith
Founder and Chairman of the Board

Lights, Camera, First Amendment

By Tiffany Donnelly



In October, Lexington Books published *Filming the First: Cinematic Portrayals of Freedom of the Press*, a book co-authored by Institute for Free Speech Research Director Helen Knowles-Gardner.

From the official description, the book: “analyzes eighteen films that show changes in how the press have

been portrayed over time, which voices receive the most attention and why, the relationship between the press’s ‘Fourth Estate’ role and the imperatives of capitalism, and how, despite the First Amendment’s seemingly absolute language, the government has sometimes been able to limit what the public can read or view.”

Knowles-Gardner contributed chapters analyzing *Good Night, and Good Luck*, *The China Syndrome*, *Denial*, *Shattered Glass*, and *Good Morning, Vietnam*.

“Preserving, protecting, and defending press freedom is essential in a democratic society. But confidence in the Fourth Estate has fallen dramatically in recent years, bringing private and public skepticism in its continuing importance. In this book, we analyze a rich selection of movies that all emphasize the timeless significance of a free press,” observed Knowles-Gardner. 📺

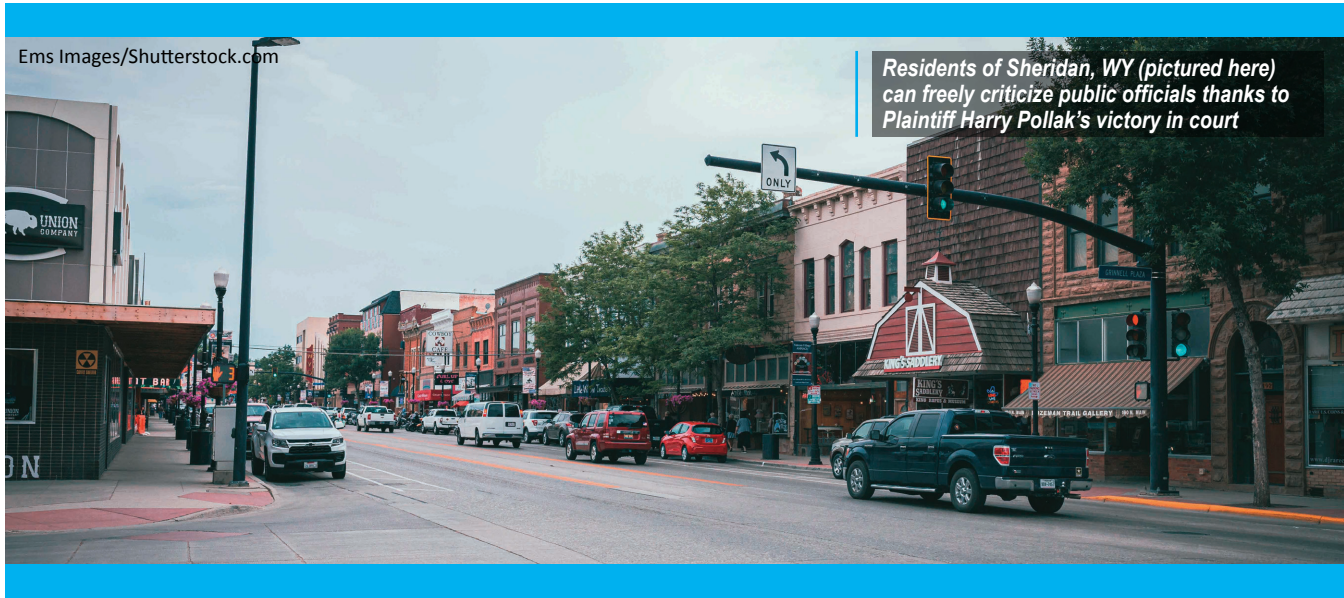


Tiffany Donnelly
Deputy Director of Communications

Judge Rules Wyoming School Board Violated First Amendment

Parent wins lawsuit to protect his right to criticize public officials

By Tom Garrett



Harry Pollak can finally criticize school officials without fear of censorship.

Pollak's long-awaited victory came in late October, when Judge Alan B. Johnson of the U.S. District Court for the District of Wyoming ruled the school board violated his right to free speech. The case, led by attorneys from the Institute for Free Speech, began after Pollak, a parent of a student attending the school, sued the Sheridan County School District No. 2 Board of Trustees for violating his First Amendment rights by censoring his criticism of a school official during a public meeting.

In February 2022, Pollak attempted to address the board to respond to statements made by the superintendent at a previous meeting. However, the board chair cut him off, claiming that mentioning the superintendent violated the board's rule against discussing "personnel matters." The chair ordered Pollak to stop speaking, and the superintendent called the police to escort him out of the

building.

Over two years later, Pollak's right to speak was finally vindicated.

The court held that boards may restrict discussion of genuine personnel matters, but using such policies to broadly exclude all speakers who mention individual employees is "unreasonable and unconstitutional." The court also held that the board chair, Susan Wilson, violated the First Amendment by invoking the personnel rule to stop Pollak from making critical comments.

As the judge's order explained, "enforcing the Policy against Mr. Pollak because his comments were 'critical' but not enforcing it against others whose viewpoints were positive constitutes viewpoint discrimination, which is a violation of the First Amendment."

"I am grateful to the Institute for Free Speech for their unwavering support and dedication to the defense of my First Amendment

rights," said Mr. Pollak. "This victory sends a clear message that public officials cannot use rules like these to suppress dissent and evade accountability. I hope my case encourages others to speak up without fear of censorship or retaliation."

"The government cannot silence criticism or censor speech it does not like," said Institute for Free Speech Senior Attorney Brett Nolan. "The court recognized that the school board's misuse of its personnel rule was an attempt to circumvent the First Amendment. We are pleased that the court has vindicated Mr. Pollak's rights, struck down the unconstitutional application of this speech restriction, and ensured that this policy can't be used to infringe on speech rights in the future." 🗣️



Tom Garrett
Chief Communications Officer

News in Brief

Highlights of some of the Institute's latest contributions to free speech advocacy

By Sarah Fisher

The Institute filed an amicus brief in National Republican Senatorial Committee v. FEC, urging the Supreme Court to grant review



Over the past several months, attorneys for the Institute for Free Speech have filed amicus curiae briefs nationwide in key free speech cases. The cases represent a wide cross-section of ongoing First Amendment challenges.

Institute Urges Supreme Court to Hear Case Challenging Federal Limits on Coordinated Party Expenditures

On January 6th, the Institute filed an amicus brief urging the U.S. Supreme Court to grant review in the National Republican Senatorial Committee's challenge to a federal campaign finance law that limits how much political parties can spend on communications in coordination with their candidates.

Last year, an appellate court reluctantly upheld the limit, citing a 2001 Supreme Court ruling on a similar challenge. The brief warns the lower court ruling "undermines the First Amendment rights of millions of Americans and introduces con-

fusion into an area of the law that [the Supreme Court] recently endeavored to clarify." It notes that the 2001 ruling is "a toothless version" of judicial scrutiny inconsistent with more recent Supreme Court rulings on campaign finance law and "threatens to sow confusion at the expense of free speech."

Full Appeals Court to Hear Mandated Pronoun Case

Following a grant of an en banc rehearing that our September brief urged, our December amicus brief asks the U.S. Court of Appeals for the Sixth Circuit to block an Ohio school district's rule forcing students to use only "preferred pronouns" when referring to transgender classmates. The brief argues that the rule at issue in *Parents Defending Education v. Olentangy Local School District* is clearly unconstitutional viewpoint discrimination.

Government Compelled Speech Violates the First Amendment

In November, the Institute filed an amicus brief urging the U.S. Court of Appeals for the Second Circuit to strike down provisions of the "Drug Price Negotiation Program" that compel pharmaceutical companies to endorse messages mandated by the federal government. The brief in *Boehringer Ingelheim v. HHS* argues that this coercive policy "not only infringes the companies' First Amendment rights, but threatens to erode critical doctrinal guardrails that protect us all."

Forced Donor Disclosure by Subpoena Raises First Amendment Concerns

The Attorney General of New Jersey issued a sweeping subpoena to the First Choice Women's Resource Centers, a Christian medical non-profit, demanding most of its donor list. In November, the Institute filed an amicus brief in *First Choice Women's Resource Centers v. Platkin*, urging the U.S. Court of Appeals for the Third Circuit to protect donor privacy by granting an injunction to prevent compelled disclosure of the group's donor list "until its First Amendment claims are fully and fairly adjudicated." [T](#)



Sarah Fisher
Associate Director of
Communications

Judge Limits Reach of Kansas PAC Law

The state can't regulate a grassroots group as a PAC unless electoral advocacy is its primary purpose

By Tom Garrett

A Kansas grassroots advocacy group can speak freely about issues and candidates without fear of being regulated as a political action committee (PAC).

In a victory for political speech rights, a Kansas federal judge ruled in January that the state law defining a PAC was unconstitutional because it would regulate grassroots groups as PACs even if they only occasionally engage in campaign-related speech. The decision in *Fresh Vision OP, Inc., et al. v. Skoglund, et al.* protects Fresh Vision OP, a local nonprofit that advocates for responsible development and quality of life issues in Overland Park, from burdensome PAC filings and donor disclosure mandates.

Attorneys for the Institute for Free Speech and local counsel Josh Ney and Ryan Kriegshauser filed the suit last year after state officials demanded Fresh Vision register as a PAC in the wake of the group's 2021 endorsement of a mayoral candidate. While regulators eventually dropped the prosecution, the group suspended operations rather than take a chance it would be investigated again.

Judge Daniel D. Crabtree ruled that Supreme Court and Tenth Circuit

Photo by: Tenille's Photography




precedents “require that a group have the major purpose—not simply a major purpose—of express advocacy before a state may designate the group as a political committee. But [the law’s] definition of a political committee impermissibly allows Kansas to designate Fresh Vision (a group with a major purpose of express advocacy but no more than that) as a political committee.”

This distinction ensures that issue advocacy groups that only occasionally engage in campaign speech cannot be subjected to chilling reporting requirements. The ruling prevents state officials from designating Fresh Vision as a PAC as long as it avoids making its major purpose candidate advocacy.

“This ruling protects citizens’ rights

to speak about local issues without fear of being mired in complex campaign finance regulations,” said Institute for Free Speech Senior Attorney Charles “Chip” Miller. “Groups like Fresh Vision exist primarily to improve their communities through issue advocacy. The First Amendment doesn’t allow bureaucrats to use arcane regulations to burden these groups’ political speech rights simply because they sometimes express support for candidates who share their values.”

“We’re grateful to the Institute for Free Speech and happy that this ruling ensures that we can finally get back to doing what we set out to do—advocating for our community and quality of life in Overland Park,” said James Muir, president of Fresh Vision OP.

The court’s ruling establishes an important principle: Kansas cannot regulate issue advocacy groups as political committees unless campaign activity is their primary focus. 



Tom Garrett
Chief Communications Officer



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