

Scenic Watch



August
2015

Reed v. Town of Gilbert

Supreme Court's free-speech expansion has far-reaching consequences beyond local sign law



Photo: Rick Bowmer/AP

"It is not too early to identify the sleeper case of the last Supreme Court term. In an otherwise minor decision about a municipal sign ordinance, the court in June transformed the First Amendment.

Robert Post, the dean of Yale Law School and an authority on free speech, said the decision was so bold and so sweeping that the Supreme Court could not have thought through its consequences. The decision's logic, he said, endangered all sorts of laws, including ones that regulate misleading advertising and professional malpractice...

An ordinance in Gilbert, Ariz., limited signs advertising church services and other events to six square feet in size.

Floyd Abrams, the prominent constitutional lawyer, called the decision a blockbuster and welcomed its expansion of First Amendment rights. The ruling, he said, 'provides significantly enhanced protection for free speech while requiring a second look at the constitutionality of aspects of federal and state securities laws, the federal Communications Act and many others.'

Whether viewed with disbelief, alarm or triumph, there is little question that the decision, Reed v. Town of Gilbert, marks an important shift toward treating countless laws that regulate



Fun Festivals and Events

Central and West

Aug 26
Wild Edibles Walk, Cape Coral
Aug 28-30
80s in the Park, Melbourne
Aug 29
Climb to the Moon, Ponce Inlet
Sept 1-30
Orlando Magical Dining Month, Orlando
Sept 4-6
Central Florida Film Festival, Ocoee
Sept 4-7
NKF Surf Festival, Cocoa Beach

speech with exceptional skepticism.

Though just two months old, the decision has already required lower courts to strike down laws barring panhandling, automated phone calls and 'ballot selfies.'

The ordinance in the Reed case discriminated against signs announcing church services in favor of ones promoting political candidates. That distinction was so offensive and so silly that all nine justices agreed that it violated the First Amendment...

It would have been easy to strike down the ordinance under existing First Amendment principles. In a concurrence, Justice Elena Kagan said the ordinance failed even 'the laugh test.'

But Justice Clarence Thomas, writing for six justices, used the occasion to announce that lots of laws are now subject to the most searching form of First Amendment review, called strict scrutiny.

Strict scrutiny requires the government to prove that the challenged law is 'narrowly tailored to serve compelling state interests.' You can stare at those words as long as you like, but here is what you need to know: Strict scrutiny, like a Civil War stomach wound, is generally fatal.

'When a court applies strict scrutiny in determining whether a law is consistent with the First Amendment,' said Mr. Abrams, who has represented The New York Times, 'only the rarest statute survives the examination.'

Laws based on the content of speech, the Supreme Court has long held, must face such scrutiny.

The key move in Justice Thomas's opinion was the vast expansion of what counts as content-based. The court used to say laws were content-based if they were adopted to suppress speech with which the government disagreed.

Justice Thomas took a different approach. Any law that singles out a topic for regulation, he said, discriminates based on content and is therefore presumptively unconstitutional.

Securities regulation is a topic. Drug labeling is a topic. Consumer protection is a topic.

A recent case illustrates the distinction between the old understanding of content neutrality and the new one.

Last year, the federal appeals court in Chicago upheld an ordinance barring panhandling in parts of Springfield, Ill. The ordinance was not content-based, Judge Frank H. Easterbrook wrote, because it was not concerned with the ideas panhandling conveys. 'Springfield,' Judge Easterbrook wrote, 'has not meddled with the marketplace of ideas.'

This month, after the Reed decision, the appeals court reversed course and struck down the ordinance.

'The majority opinion in Reed effectively abolishes any distinction between content regulation and subject-matter regulation,' Judge Easterbrook wrote. 'Any law distinguishing one kind of speech from another by reference to its meaning now requires a compelling justification.'

That same week, the federal appeals court in Richmond, Va., agreed that Reed had revised the meaning of content neutrality. 'Reed has made clear,' the court said, that 'the government's justification or purpose in enacting the law is irrelevant' if it singles out topics for regulation. The court struck down a South Carolina law that barred robocalls on political and commercial topics but not on others.

Last week, a federal judge in New Hampshire relied on Reed to strike down a law that made it illegal to take a picture of a completed election ballot and show it to others. 'As in Reed,' Judge Paul Barbadoro wrote, 'the law under review is content-based on its face because it restricts speech on the basis of its subject matter.'

In a concurrence in the Reed decision, Justice Stephen G. Breyer suggested that many other laws could be at risk under the majority's reasoning, including ones concerning exceptions to the confidentiality of medical forms, disclosures on tax returns and signs at petting zoos.

Professor Post said the majority opinion, read literally, would so destabilize First Amendment law that courts might have to start looking for alternative approaches. Perhaps courts will rethink what counts as speech, he said, or perhaps they will water down the potency of strict scrutiny..."

-- Adam Liptak, New York Times

Sept 5
First Saturday Jam, Barberville
Sept 5
Gecko Fest, Gulfport
Sept 5-6
Sponge Docks Art and Craft Festival, Tarpon Springs
Sept 5-7
Cold-Blooded Weekend, Melbourne
Sept 6
Brevard Caribbean Fest, Cocoa
Sept 11-12
Rock the Universe at Universal Studios, Orlando
Sept 11-13
Rock Mineral Gem Jewelry Fossil Show, Orlando
Sept 12
Turtle Krawl 5K Run/Walk, Indialantic
strong>Sept 12-13
I Like It Hot Festival, Largo
Sept 12-13
Florida International Reptile Expo, Lakeland
Sept 12-13
Corks for Cancer, Clermont

South East and Keys

Aug 29-Sept 13
Annual International Ballet Festival of Miami, Miami
Sept 2-7
Key West Brewfest, Key West
Sept 4-6
West Palm Beach Antiques Festival, West Palm Beach
Sept 5-6
Labor Day Weekend Craft Festival, Venice
Sept 10-13
WomenFest, Key West
Sept 11-12
Key Largo Lionfish Derby, Key Largo
Sept 12-13
Galloway Captiva Triathlon, Captiva Island

North

Sept 3, 10, 17, 24
Americana Under the Stars, Santa Rosa Beach
Sept 4
First Friday Art Walk, St Augustine
Sept 4-8
Celebrate 450!, St. Augustine
Sept 4-6
Ft. Walton Beach's Greek Festival, Ft. Walton Beach
Sept 4-6
Pepsi Gulf Coast Jam Country Music Festival, Panama City Beach
Sept 5

[Read entire article here](#)

Miami: Park Reclaiming Event Includes Children, Police and Elected Officials As They Pick up Chalk and Start Drawing Together!



Photo: UEL.com



Photo: Marsha Halper, Miami Herald

"Giovanni Grandinetti, 7, of Miami, chawks in stars on the blacktop behind AmericanAirlines Arena during Engage Miami's Chalk-athon on Saturday, Aug. 8, 2015.



Photo: Marsha Halper, Miami Herald

An organization created to engage young Miamians on local issues, Engage Miami hosted the free event to help transform Parcel B into the park of their dreams: Dan Paul Park.

- Gulf Coast Summer Fest, Pensacola
- Sept 5-6
- First Weekend Union Garrison, Fernandina Beach
- Sept 6
- Jerk Food Fest, Jacksonville
- Sept 8
- Menendez Founder's Day, St. Augustine
- Sept 9-12
- Spanish Wine Festival, St. Augustine
- Sept 10-11
- Emerald Coast Beer Festival, Pensacola
- Sept 11-13
- Old Time Music Weekend, White Springs
- Sept 11-13
- Juana's Good Time Regatta, Navarre Beach
- Sept 13
- Artrageous Artwalk, Amelia Island
- Sept 14-20
- Lobster Festival and Tournament, Panama City Beach
- Sept 19
- Butterflyfest, Gainesville
- Sept 20
- Pickin' in the Park, Ocala

[For many more events and details please visit the Orlando Times Travel Calendar here](#)





Photo: Marsha Halper, Miami Herald

More than 20 years ago, the people of Miami were promised by Miami-Dade County and the Miami Heat that the four acres of land behind the arena would be a waterfront park for the public. The park went undeveloped and the parcel was paved with asphalt earlier this year..."

-- Joseph Goodman, Miami Herald

[Visit Miami Herald to see more photos and read entire article.](#)

Placemaking:

"MIT Media Lab's "Placelet" project will measure the quality of a space by tracking how people move through it."



Photo: Shutterstock/ChameleonsEye

"Creating a lively public space isn't as easy as building it and waiting for the crowds to come. There's a lot that city planners have to consider..."

A group of researchers at MIT thinks that there's an important piece of the puzzle that's too often overlooked: the human experience. Studying how people interact with cars, buildings, and sidewalks within an urban space says a lot about its quality, says Elizabeth Christoforetti, an urban and architectural designer at MIT Media Lab.

With a \$35,000 grant from the Knight Prototype Fund, she and her team are working on a project called Placelet, which will track how pedestrians move through a particular space. They're developing a network of sensors that will track the scale and speed of pedestrians, as well as vehicles, over long periods of time. The sensors, which they are currently testing in downtown Boston, will also track the 'sensory experience' by recording the noise level and air quality of that space.

...without concrete data or visualizations, it can be hard for city planners to understand exactly where problems lie. Take, for example, the Essex Street Pedestrian Mall in Salem,

Massachusetts, where Christoforetti was a designer for a different project. 'Everyone was convinced that the pedestrian mall needed to stay pedestrian, but businesses were struggling, and there were very high rates of vacancy,' she say...

She hopes cities will use the technology from this new project to draw out the subtle problems that cause the inefficient use of public spaces—and to test out different solutions..."

-- Linda Poon, The Atlantic CityLab

[Read entire article here](#)

Digital ad spotted with the infamous "Blue Screen of Death"



Photo: Via Noah Tron

"I guess Cours Mont-Royal need to monitor their ads a little better because one of their digital billboards was frozen while displaying the infamous 'Blue Screen Of Death'..."

Every computer owner has experience this at least once. You reach that heart stopping moment when you read: 'Dumping Physical Memory' and you wonder if your whole computer just deleted itself."

-- Jeremy Hazan, MTL Blog

[Read entire article here](#)

Unvertising? "Digital billboards praise nature instead of nauseating advertisements"



Photo: PSFK.com

"Drivers along the I-93 and I-95 highways in Massachusetts during late June and early July probably noticed something a little different along their commute: digital billboards that depicted photos of nature. Artist Brian Kane re-imagined billboard spaces and used them to showcase rotating images of each natural location during the day and photos of the moon and stars at night.

These billboards make up a site-specific installation called Healing Tool, a part of Kane's Art for Commuters series. Named after the tool in Photoshop, the installation replaces advertisements with rotating photos. Instead of patching something on a photograph, each billboard patches its surroundings. By replicating the natural environment and eliminating advertising messages, Healing Tool re-instates the atmosphere of these spaces before the inclusion of commercial billboards...

The billboards are meant as conversations starters, even if that dialogue is an internal one. On his website, Kane describes the project as "a form of "unvertising – a campaign without a message." By removing these commercial images, he hopes to create "an unexpected moment of introversion."

-- Eva Recinos, PSFK.com

[See additional photos and read entire article here](#)

