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1. The Capital City Airport Commission, a city agency, promulgated two regulations. The first prohibited the sale of literature or the solicitation of funds by all organizations except from booths in the airport lobby; these booths were in fixed locations and were rented on a first-come, first-served basis for the sum of \$100 per month. The second regulation prohibited literature distribution in the airport in the baggage retrieval area and in the areas between the metal detectors and the boarding gates. Both regulations were challenged by Americans for Gun Control, a political organization. The United States Supreme Court ultimately decided the case. What result, and why?

BEST ANSWER

The two regulations involve individuals' right to free speech. The freedom guaranteed by the 1st amendment is not absolute. The type of regulation permitted depends on the type of speech and the nature of the regulation.

The forum that is being used for the communication also determines what regulations are constitutional. The first regulation involves a designated public forum. The city has decided to allow ideas to be expressed in the airport lobby. When the forum is a traditional or designated public forum, the regulation must be a valid time, place and manner type of restriction. The regulation must be content neutral, narrowly tailored to serve an important government interest and there must be alternative channels of expression available. Here the regulation is content neutral. The booths are allocated on a first-come, first-served basis regardless of the nature of the speech the group advocates. The regulation is narrowly tailored to an important government interest. That interest is traffic of people and the only speech NOT allowed is selling and soliciting money which could interfere with pedestrian traffic. Finally, there are alternative channels available in the areas outside the lobby or the airport to use. The second regulation involves a non-public forum in the area for baggage claim. This is not an area traditionally used for speech and not designated as such. The regulation must survive rational basis if it is viewpoint neutral and strict scrutiny if it is not. Here, the regulation is viewpoint neutral in that all speech of this type in these areas is prohibited. This is not deciding who can express their views based on the opinion which they have. To withstand rational basis, the regulation must be rationally related to a legitimate government interest. The government interest is security in the airport and this could be a means of achieving this goal so it would be constitutional just like the 1st regulation.

2. Albert Allen had twice been convicted of murder; both convictions were reversed on appeal on the grounds of adverse prejudicial pre-trial publicity. Consequently, before the beginning of the third trial, the judge (on motion of the defense counsel and consented to by the prosecutor) issued an order prohibiting all persons connected with the case (including prosecutors, defense counsel, police, witnesses, and coroners) from discussing the matter with the press, upon pain of contempt of court. This order was challenged by a police officer who was cited for contempt and by several newspapers. The case was finally decided by the United States Supreme Court. What result, and why?

BEST ANSWER

The issue with respect to the police officer is one of freedom of speech. The order is a prior restraint on speech which is very closely scrutinized. The Court would need to balance the officer's right to free speech against Allen's right to a fair trial (5th Amendment). Here history has shown by talking to the press a right to a fair trial has been violated; therefore, the ruling seems to be in furtherance of that right. Also, a police officer, an officer of the court, can be told not to discuss a case due to the nature of his work. This type of "gag order" is pretty common.

The issue for the newspaper is one of freedom of the press and since newspapers have not been held to have a higher right to speech than people, this ruling limits the freedom of the press and would have to survive strict scrutiny. Is the ruling substantial related to a compelling governmental interest? Yes, because the interest is Allen's right to a fair trial. The past has shown that right is infringed by the press. Also, the judge has not prohibited the paper from covering the story, only the sources that can be used were limited. Also, once the case is over, there is nothing to say the paper cannot write about it. The paper may sit in on the trial and write about that so many alternative means are available. Though strict scrutiny is usually fatal, the ruling would survive in this case. Freedom of the press does not extend so far as to violate another right guaranteed by the Constitution. Both the police officer and the newspaper would have to follow the judge's ruling.

3. Because of its concerns about teen-age smoking and the huge amount of public money being spent to treat cancer victims, Congress enacted a statute prohibiting all tobacco advertising on radio, television, magazines, and newspapers. These regulations have been challenged in two federal suits brought, respectively, by a television network and a major weekly newsmagazine. These cases were finally reviewed by the United State Supreme Court. What results, and why?

BEST ANSWER

The issue in this case is if regulation on commercial speech violate 1A. Court first will look to see if regulation on lawful activity that is not misleading here action of smoking is lawful and ads are not misleading. Thus within 1A protection, Court will apply Central Hudson test. Test is (1) is there substantial government interest. Here, interest is substantial to stop cancer and teen-age smoking. (2) Does regulation directly advance this interest? Arguably less ads mean less smoking. (3) Is statute narrowly tailored? Here, statute is overheard because it regulates speech in print. It is the state's burden to prove that the regulation would alleviate the harms attributed to advertising. Even though no ads would reduce cancer and teenage smoking, they would still exist. Thus, the plaintiff has failed to carry its burden on Freedom of Speech.

The covert Courts separate the issues because FCC may regulate broadcasting. T.V. and radio are limited fora, thus FCC has interest in protecting public because public owns airwaves; thus, listeners' interest is paramount to speaker. Listener is a captive audience. If court separates T.V. from print, then regulation of ads on broadcasting is valid.