Sherbert v. Verner

Facts/Rules- Adell Sherbert worker in Spartanburg, South Carolina as a spool tender, which she had done for thirty-five years. She worked 40-hour weeks, where she had the option to work on Saturdays, but declined to do so. This was done because Adell was a Seventh-day Adventist, which held Saturday was their religion's Sabbath. In June of 1959, Adell was informed that her employer that Saturday's would no longer be optional, and her presence was mandatory if she wanted to retain her job. Once enforced, Sherbert did not work for six consecutive Saturdays, while she still showed up for the weekdays. This lead to her employer firing Adell, she looked for other work in textile mills, yet they all too operated on Saturday's. Jobless, Sherbert applied for unemployment, the examiner in charge of Sherbert's case denied her unemployment benefits (p. 381). This was done on the basis that the examiner felt Sherbert turned down "suitable work when offered", alluding to the fact that her religious preference was an illegitimate reason to refuse a job (p.382).

Issues- May a state deny unemployment benefits to persons whose religious beliefs preclude their working on Saturdays?

Holdings- There is no justification to withhold or deem ineligible an individuals benefits.

Rationale- In the delivery of the Court it is stated early on that the objection of working on a Saturday, due to religious principles, are not in the reach of the state's legislative power. Disqualifying one's benefits burdens the free exercise of Sherbert's religion. She is found to be ineligible solely on the fact that she adamantly practices her religion, thus pressuring her to minimize or forego her practice. This clear governmental imposition puts a burden upon the free exercise of religion. In addition, by South Carolina finding her ineligible to receive benefits, it's

producing the idea that benefits are “privilege” not a “right”. It could be argued that by giving into a claim such as Sherbert’s, cases such as hers could then plague the unemployment office, and have many filing for unemployment (p. 382). However, fear and hypothesizing of possible outcomes is not what the Court is to decide upon. False religious beliefs cannot infringe on the current religious liberties that have been bestowed upon the people. Thus, denying one unemployment benefit based on their religious preference is found to be an overexertion of state power and counteracts the Free Exercise Clause (p.383).

Town of Greece v. Galloway

Facts/Rules- A town in upstate New York, Greece, during 1999 began its town meetings with a prayer. A member of a local clergy would recite a prayer, in hopes of having the officials center themselves for a “solemn and deliberate tone and to invoke divine guidance” (p. 424). A town employee reached out to all local religious congregations and asked for volunteers. However, the town did not try to interest clergies from outside the town lines or have diversity from the prayers given. Any religion was allowed to participate in creating and wording their prayer, without pay. There was no reviewal of the prayer of guidelines to follow, and no clergy was denied or excluded from participating. Yet, Greece had mainly only congregations that were Christian and used the name of Jesus. Two attendees of these board meetings, Susan Galloway, a Jewish woman, and Linda Stephens, an atheist, objected to the prayers. Galloway described them as “offensive” and “intolerable” (p. 425). Once the complaints were heard the board invited a Jewish layman and member of the Baha’i faith to lead the group.

Issues- Did the usage of sectarian prayers at the beginning of a town board meeting violate The Establishment Clause?

Holdings- Prayers at the beginning of meetings can have a permissible ceremonial purpose, making it Constitutional, and not overstepping the establishment of religion.

Rationale- The Constitution had not been violated in this particular case, legislative prayer is religion-based, yet it is found to be compatible with the Establishment Clause. Prayers at the beginning of meeting are done with the intention to have those members reminded there is a higher purpose of their duty; trivial actions and selfish acts should be put aside, the betterment of society should be at the forefront of those individuals minds. It is not done to establish a state church (p. 425). Diversity is flourishing within America, thus then implementing a prayer we cannot lean towards sectarian content, but welcome the many creeds we do have. But, holding that the prayers must be nonsectarian would make legislature sponsor particular prayers. To that Justice Kennedy mentioned, " Our government is prohibited from prescribing prayers to be recited in our public institutions to promote a preferred system of belief or code of moral behavior" (p.426) By choosing what type of prayer is to be used at an event, such like the town board meeting, it is then evoking the entanglement of church and state. Giving a prayer that is respectful prior to the start is done for personal reflection, allow them to connect on shared ideals, but not coerce individuals into participating and believing. The mention of bias towards the Christian faith in these town meetings was not found. The Court felt that the predominant nature of the town congregations were Christian, it was not that they only wanted that faith represented. Once complaints of biased were brought to the attention, efforts were made to make sure there was diversity within the prayers. It is stated how "[searching for] a diversity' of religious views" (p. 426) would entangle the government in religion, as they would have to choose the appropriate number of religions to be expressed. Thus, in conclusion, Greece's

actions of offering a prayer, was not mandated, members were not compelled to participate. Such offerings were not for the public, but the board or lawmakers (p. 426). Justice Thomas and Justice Scalia concurred, with measurable reason, as they felt coercion was not found in this case. They felt that their understanding of coercion was slightly different from Justice Kennedy. These Justices viewed it as "by force of law and threat of penalty", seeing that the old religious establishment would use such tactics to make revenue and declare their opinions. With that in mind one can see how the "subtle coercive measures" that Galloway and Stephens experienced is not legal coercion, which they would in this particular case; the word peer pressure may have been more appropriate for this instance (p. 427).

Snyder v. Phelps

Facts/Rules- Back in 1955 Fred. W. Phelps Sr. founded the Westboro Baptist Church in Topeka, Kanas. Since then he has been the only minister, teaching that God hates homosexuality and punishes the United States and our military for being tolerant of gays. As mainly following the Protestant Christianity, the Westboro Church openly expresses their disdain to the Catholic Church. One example of this would be them picketing military funerals to express their views. At the death of Marine Lance Corporal Matthew Snyder in 2006, his funeral was held at St. John's Catholic Church in Westminster, Maryland. Phelp's and his followers decided to picket Snyder's funeral, but they informed the police ahead of time and followed all local ordinances. No obstruction of the attendees was done by the protestors, nor were they approached, as they were 1,000 feet away from the church on local land. Their signs clearly expressed the opposition to homosexuality and the Catholic Church. While Albert Snyder, Matthew's father, did not see the protestors at the time of the funeral, he did later that night on TV. Snyder then filed a civil

lawsuit against Phelp's and the Westboro Church for emotional distress, intentional infliction, and unlawful act under Maryland law. However, the protestors claimed that their expression was covered under the First Amendment (p. 461-462).

Issues- Was the speech that was done by the picketers considered private or public speaking? And to which one, is it then protected under the First Amendment?

Holdings- The Westboro speech is considered to be public speech, on a public opinion, which entitles it to special protection under the First Amendment.

Rationale- It is known that the First Amendment reflects "a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open" (p. 463), and as having the ability to freely speak on public opinions is not only self-expression, but part of the foundation of self-governing. Private and public speech is brought to the forefront because restricting speech on private matters does not highlight the same constitutional concerns as limiting speech on public matters. To be deemed public the matter must deal with "political, social, or other concern to the community" (p. 463).To decide whether it is public of private one must look at the content, form, and context of the speech. The content in this case of the Westboro signs is found to be of a public matter. The slogans that had been written on the posters were not aimed at Snyder's family or even the town, but a more nationwide issue. When looking at the context of the case, awareness is brought to the fact that the signs were displayed on public land next to a public street. It did not alter or disturb the funeral or the funeral-goers unless they passed by or saw it later on television (p. 463). Westboro church followers complied with local guidelines, altered the police ahead of time, and with no unruly actions made by the picketers. Distress of the mourners was found to be at the message being sent, not the ligament actions of

the protestors. Thus, public speaking cannot be restricted on the basis that it causes upset to individuals, otherwise all protests must be banned (p. 464).

Brown v. Entertainment Merchants Association

Facts/Rules- In 2005 California passed a law banning the direct sale/rent of violent video games to minors. This was done to assist parents in restricting their children's violent gaming. Legislation also hoped that it would help decrease or prevent violent, aggressive, and antisocial behavior. These findings were backed by scientific data that proved the harm in violent video games. If an individual was found to be violating the law they would be fined $1,000. In lieu of this the Entertainment Merchants Association, a not-for-profit trade association that wanted to further the interest of the home entertainment industry filed a suit against the bill claiming it violated the freedom of the speech clause of the First Amendment (p. 506).

Issues- Can the First Amendment restrict states from selling what they deem as violent video games to minors?

Holdings- Yes, the barring the sale of violent video games to minors is found to be unconstitutional under the First Amendment.

Rationale- California had the right to find that video games fall under the protection of the First Amendment. These games are found to have the ability to communicate ideas and messages through their use, just as books and movies, which are also protected under the amendment. As our technology is advancing it does not mean that the Constitution does not apply to them, it morphs to the new medium. We must weight the context and costs of the speech at hand to see how it can affect the public. But the legislature cannot find what is shocking, as violence is not sexual conduct, which is a different matter (p. 507). There is a multitude of readings that one

could find uncomfortable and horrifying, yet it is still on the shelves for anyone to read. Claiming that acting out an action in a game will heighten the possibility of it happening in real life is difficult to determine, while there is evidence there is not enough to clearly correlate the two. In addition, there are other instances that can provoke violent behavior besides video games. While the intentions were good, it is an overstep of the California government to bar minors from buying them (p. 508).