3 Major Supreme Court Cases That Protected Our Civil Liberties Against the Government

By Jack Lee

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1. Kyollo v. United States (2001)

In this case, law enforcement agents used thermal imaging to detect hot spots outside of Kyollo's apartment. Upon seeing hot spots, the agents were able to secure a warrant to search the apartment where they found Kyollo had been growing marijuana. SCOTUS ruled 5-4 in favour of Kyollo that the use of thermal imaging constituted an illegal search. Scalia stated in the majority opinion:

"Where, as here, the Government uses a device that is not in general public use, to explore details of a private home that would previously have been unknowable without physical intrusion, the surveillance is a Fourth Amendment "search," and is presumptively unreasonable without a warrant."

Today, with the ever-expanding use of technology by the government for surveillance, including the controversial use of UAVs or drones over civilian air space, we should keep in mind that we are protected against unreasonable searches and seizures under the Fourth Amendment, especially those searches that would not be possible without such devices. In the near future we will more than likely see drones used to monitor U.S. citizen activity as well as gather intelligence domestically, but we do not yet know the extent of such activities.

2. District of Columbia v. Heller (2008)

Heller argued that the District of Columbia's laws, which effectively banned handgun ownership, infringed on his Second Amendment rights. SCOTUS ruled 5-4 in favour of Heller, once again reaffirming the individual right to keep and bear arms. In the majority opinion, the court recognized that the Second Amendment was put in place to prevent disarmament of the citizens' militia, so that no "politicized standing army or a select militia" would rule.

In addition, the ruling also points out that arms that are "in common use at the time" for lawful purposes are protected under the Second Amendment and can not be banned, and includes arms that the military may use. Furthermore, the ruling also mentions U.S. v. Miller for an example of arms that would not be commonly used by a militia, or those arms that are "dangerous and unusual," that would not be protected.

The court also mentions the common argument that these weapons may not be enough to fight against "modern-day bombers and tanks," it does not change the

interpretation of the Second Amendment. Our legislators should keep this in mind when they are proposing new gun control legislation.

3. New York Times Co. v. United States (1971)

At issue here was the freedom of the press. The Nixon administration sought an injunction against both the New York Times and the Washington Post, in order to stop the publication of content from the Pentagon Papers, which was at the time classified information regarding decision-making practices in Vietnam. The court ruled 6-3 in favour of the New York Times Co., citing the importance of the First Amendment.

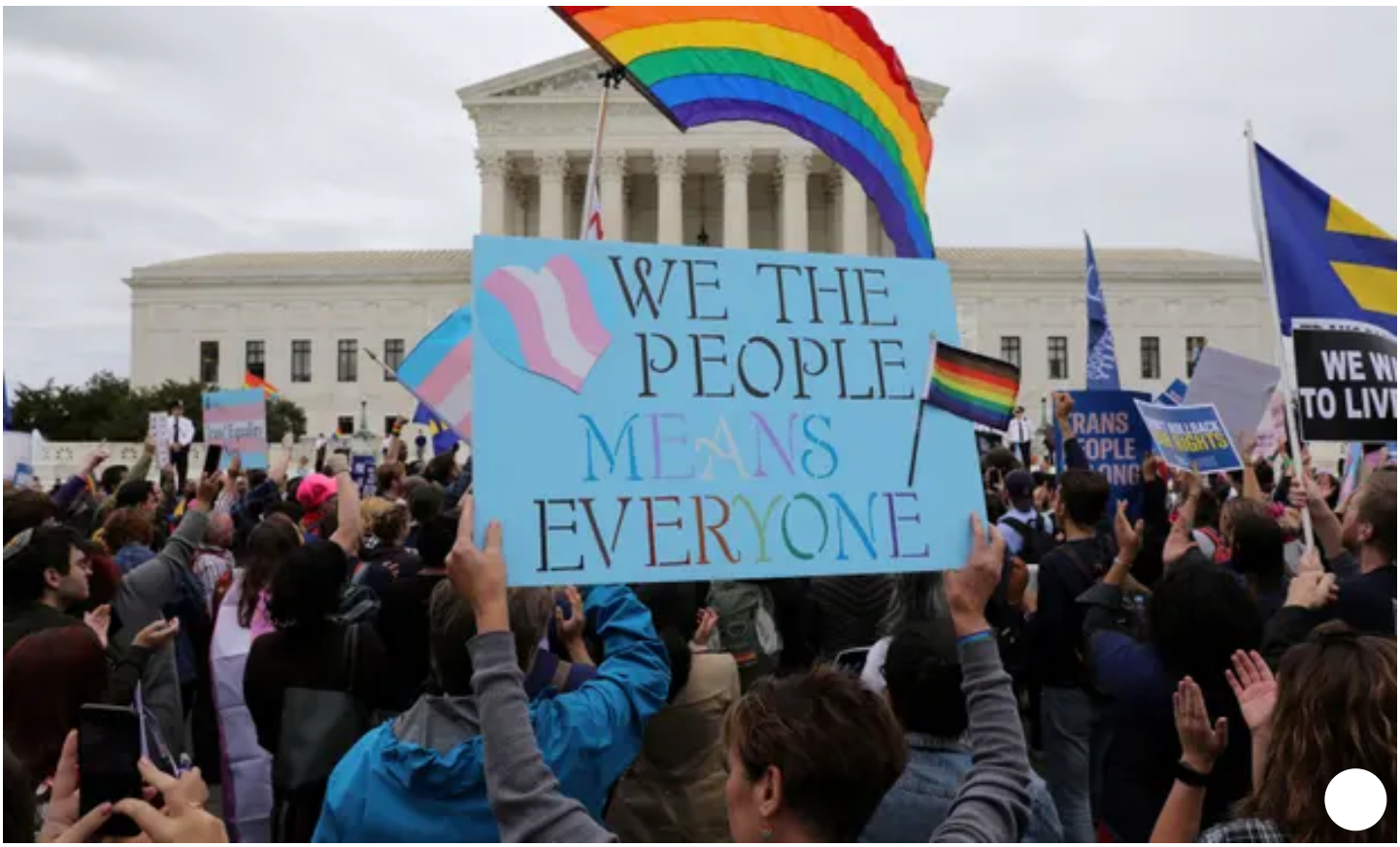
The court noted that there are limitations to the First Amendment and publication of such information that would lead to "grave and irreparable" danger, which may be cause for such limitations. However, many of the justices noted that the the freedom of the press should be preserved as a check against government power, particularly the executive. Justice Potter Stewart stated:

"In the absence of the governmental checks and balances present in other areas of our national life, the only effective restraint upon executive policy and power in the areas of national defence and international affairs may lie in an enlightened citizenry — in an informed and critical public opinion which alone can here protect the values of democratic government. For this reason, it is perhaps here that a press that is alert, aware, and free most vitally serves the basic purpose of the First Amendment. For, without an informed and free press, there cannot be an enlightened people."

As our government wages the war on terror abroad, and especially here at home, the freedom of the press to present information that would scrutinize the executive's policy and enlighten the public is as applicable today as it was when this SCOTUS decision was handed down. We hear little from the press holding this administration accountable for policy such as fighting to keep the power to indefinitely detain U.S citizens under the NDAA or scrutinizing the justification of an executive "kill list" and how it is applied. Today, we need our press to be willing and able to scrutinize our government's policies and not just regurgitate partisan talking points.

Although the rulings in each of these cases serve to reinforce American civil rights, we must remember that in order for these cases to have reached SCOTUS, the government had to overstep its authority first. Government only derives its power from the governed, and the U.S. constitution was meant to explicitly enumerate the powers of the government. Today we take legislation like FISA, the PATRIOT Act, and the NDAA for granted. While Rand Paul was highlighting the peril that our civil liberties faced on Wednesday, we must continue to be vigilant in order to preserve our unalienable rights not just for us, but for generations to come as well.

The Guardian



US supreme court rules employers cannot discriminate against LGBTQ+ workers

Court rules 1964 civil rights law bars employers from discriminating against workers based on sexual orientation or transgender status

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The supreme court has ruled that a landmark 1964 civil rights law protects gay and transgender workers from discrimination in a historic victory for the LGBTQ+ community.

The six-to-three verdict is the biggest victory for LGBTQ+ rights since the court upheld marriage equality in 2015 and for the first time extends federal workplace protections to LGBTQ+ workers nationwide.

The case concerned whether Title VII of the Civil Rights Act of 1964, which bars employment discrimination based on race, religion, national origin and sex, also covered LGBTQ+ workers.

“Today, we must decide whether an employer can fire someone simply for being homosexual or transgender. The answer is clear. An employer who fires an individual for being homosexual or transgender fires that person for traits or actions it would not have questioned in members of a different sex. Sex plays a necessary and undisguisable role in the decision, exactly what Title VII forbids,” justice Neil Gorsuch wrote.

The three cases the court heard, Altitude Express Inc v Zarda, Bostock v Clayton county, and RG & GR Harris Funeral Homes v EEOC concerned whether or not a federal ban on sex discrimination forbids employment discrimination against LGBTQ+ workers.

The Harris Funeral Homes case centered on Aimee Stephens, a trans woman fired after her boss claimed it would violate "God's commands" if he allowed her "to deny [her] sex while acting as a representative of [the] organization.".

Stephens' case was the first trans rights case to come before the supreme court and came at a time when attacks on trans people have spiked and the federal government and conservative states have moved to erode the rights of trans people.

Donald Zarda and Gerald Bostock, both gay men, alleged they were fired from their jobs because of their sexual orientation.

Zarda, a skydiving instructor, lost his job after revealing to a female client he was gay ahead of a tandem jump - he had thought the disclosure would make her more comfortable with their close physical contact.

Bostock, an award-winning child social services coordinator, was fired from his job in Georgia after his boss discovered he had joined a gay softball league.

Before the ruling job discrimination against gay and transgender workers was still legal in much of the nation. Some 29 states currently allow some form of discrimination on the basis of sexual orientation or gender identity in employment, housing and public accommodation.

Under the Trump administration many conservative state legislatures have advanced bills that target the rights of transgender people in particular. On Friday the Trump administration rolled back Obama-era healthcare protections for transgender Americans.

The defendants in the cases have been supported by a cohort of rightwing groups including the Alliance Defending Freedom (ADF), a conservative Christian group.

After the ruling ADF tweeted: "Redefining sex discrimination will cause problems in employment law, reduce bodily-privacy protections for everyone, and erode equal opportunities for women and girls, among many other consequences."

Objecting to the ruling justice Samuel Alito called the decision "breathtaking" in its arrogance and an "illogical" misreading of Title VII. "In 1964, ordinary Americans reading the text of Title VII would not have dreamed that discrimination because of sex meant discrimination because of sexual orientation, much less gender identity," he wrote.

Both Stephens and Zarda died before the verdict. Speaking to the Guardian last September, Stephens said: "In my own mind I have to wonder are these people even awake. Trans people have been around, Lord knows, for hundreds, thousands of years and we've interacted with them all the time and we haven't had problems. So why are we dreaming up problems now that don't exist?"

Jay Kaplan, Stephens' lawyer at the American Civil Liberties Union of Michigan, said losing her job had been devastating for Stephens. "Her job was so important to her. It was her calling and her purpose in life and when it was taken away it was devastating," he said. "Being in this case was so meaningful to her."

Since you're here ...

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