



WOOLEY v. MAYNARD
SUPREME COURT OF THE UNITED STATES
430 U.S. 705
April 20, 1977

OPINION: BURGER...The issue on appeal is whether the State of New Hampshire may constitutionally enforce criminal sanctions against persons who cover the motto "Live Free or Die" on passenger vehicle license plates because that motto is repugnant to their moral and religious beliefs.

(1)

Since 1969 New Hampshire has required that noncommercial vehicles bear license plates embossed with the state motto, "Live Free or Die." Another New Hampshire statute makes it a misdemeanor "knowingly to obscure . . . the figures or letters on any number plate." The term "letters" in this section has been interpreted by the State's highest court to include the state motto.

Appellees George Maynard and his wife Maxine are followers of the **Jehovah's Witnesses** faith. The Maynards consider the New Hampshire State motto to be repugnant to their moral, religious, and political beliefs, and therefore assert it objectionable to disseminate this message by displaying it on their automobiles. Pursuant to these beliefs, the Maynards began early in 1974 to cover up the motto on their license plates...

(2)

On March 4, 1975, appellees brought the present action pursuant to 42 U.S.C. § 1983 in the United States District Court for the District of New Hampshire. They sought injunctive and declaratory relief against enforcement of N.H.Rev.Stat. Ann. §§ 262:27-c, 263:1, insofar as these required displaying the state motto on their vehicle license plates, and made it a criminal offense to obscure the motto...Following a hearing on the merits, the District Court entered an order enjoining the State "from arresting and prosecuting the Maynards at any time in the future for covering over that portion of their license plates that contains the motto 'Live Free or Die.' We noted probable jurisdiction of the appeal...

(4)

The District Court held that by covering up the state motto "Live Free or Die" on his automobile license plate, Mr. Maynard was engaging in symbolic speech and that "New

Hampshire's interest in the enforcement of its defacement statute is not sufficient to justify the restriction on appellee's constitutionally protected expression." We find it unnecessary to pass on the "symbolic speech" issue, since we find more appropriate First Amendment grounds to affirm the judgment of the District Court. We turn instead to what in our view is the essence of appellees' objection to the requirement that they display the motto "Live Free or Die" on their automobile license plates. This is succinctly summarized in the statement made by Mr. Maynard in his affidavit filed with the District Court:

"I refuse to be coerced by the State into advertising a slogan which I find morally, ethically, religiously and politically abhorrent."

We are thus faced with the question of whether the State may constitutionally require an individual to participate in the dissemination of an ideological message by displaying it on his private property in a manner and for the express purpose that it be observed and read by the public. We hold that the State may not do so.

A

We begin with the proposition that the right of freedom of thought protected by the First Amendment against state action includes both the right to speak freely and the right to refrain from speaking at all. Board of Education v. Barnette¹. A system which secures the right to proselytize religious, political, and ideological causes must also guarantee the concomitant right to decline to foster such concepts. The right to speak and the right to refrain from speaking are complementary components of the broader concept of "individual freedom of mind." This is illustrated by the recent case of Miami Herald Publishing Co. v. Tornillo where we held unconstitutional a Florida statute placing an affirmative duty upon newspapers to publish the replies of political candidates whom they had criticized. We concluded that such a requirement deprived a newspaper of the fundamental right to decide what to print or omit:

"Faced with the penalties that would accrue to any newspaper that published news or commentary arguably within the reach of the right-of-access statute, editors might well conclude that the safe course is to avoid controversy. Therefore, under the operation of the Florida statute, political and electoral coverage would be blunted or reduced. Government-enforced right of access inescapably 'dampens the vigor and limits the variety of public debate.'" New York Times Co. v. Sullivan².

The Court in Barnette was faced with a state statute which required public school students to participate in daily public ceremonies by honoring the flag both with words and traditional salute gestures. In overruling its prior decision in Minersville District v. Gobitis³, the Court held that "a ceremony so touching matters of opinion and political attitude may not be imposed upon the individual by official authority under powers committed to any political organization under our Constitution." Compelling the affirmative act of a flag salute involved a more serious

¹ Case 1A-S-9 on this website.

² Case 1A-S-12 on this website.

³ Case 1A-S-6 on this website.

infringement upon personal liberties than the passive act of carrying the state motto on a license plate, but the difference is essentially one of degree. Here, as in *Barnette*, we are faced with a state measure which forces an individual, as part of his daily life, indeed constantly while his automobile is in public view, to be an instrument for fostering public adherence to an ideological point of view he finds unacceptable. In doing so, the State "invades the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control."

New Hampshire's statute in effect requires that appellees use their private property as a "mobile billboard" for the State's ideological message or suffer a penalty, as *Maynard* already has...The First Amendment protects the right of individuals to hold a point of view different from the majority and to refuse to foster, in the way New Hampshire commands, an idea they find morally objectionable.

B

Identifying the *Maynards'* interests as implicating First Amendment protections does not end our inquiry however.

We must also determine whether the State's countervailing interest is sufficiently compelling to justify requiring appellees to display the state motto on their license plates. *United States v. O'Brien*. The two interests advanced by the State are that display of the motto (1) facilitates the identification of passenger vehicles, and (2) promotes appreciation of history, individualism, and state pride.

The State first points out that passenger vehicles, but not commercial, trailer, or other vehicles are required to display the state motto. Thus, the argument proceeds, officers of the law are more easily able to determine whether passenger vehicles are carrying the proper plates. However, the record here reveals that New Hampshire passenger license plates normally consist of a specific configuration of letters and numbers, which makes them readily distinguishable from other types of plates, even without reference to the state motto. **Even were we to credit the State's reasons and "even though the governmental purpose be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved. The breadth of legislative abridgment must be viewed in the light of less drastic means for achieving the same basic purpose."** *Shelton v. Tucker*.

The State's second claimed interest is not ideologically neutral. The State is seeking to communicate to others an official view as to proper appreciation of history, state pride, and individualism. Of course, the State may legitimately pursue such interests in any number of ways. However, **where the State's interest is to disseminate an ideology, no matter how acceptable to some, such interest cannot outweigh an individual's First Amendment right to avoid becoming the courier for such message.**

We conclude that the State of New Hampshire may not require appellees to display the state motto upon their vehicle license plates; and, accordingly, we affirm the judgment of the District Court.

CONCURRENCE/DISSENT: WHITE/BLACKMUN/REHNQUIST. [Not Provided.]

DISSENT: REHNQUIST/BLACKMUN...Appellees have not been forced to affirm or reject that motto; they are simply required by the State, under its police power, to carry a state auto license tag for identification and registration purposes...

As found by the New Hampshire Supreme Court in Hoskin, there is nothing in state law which precludes appellees from displaying their disagreement with the state motto as long as the methods used do not obscure the license plates. Thus appellees could place on their bumper a conspicuous bumper sticker explaining in no uncertain terms that they do not profess the motto "Live Free or Die" and that they violently disagree with the connotations of that motto. Since any implication that they affirm the motto can be so easily displaced, I cannot agree that the state statutory system for motor vehicle identification and tourist promotion may be invalidated under the fiction that appellees are unconstitutionally forced to affirm, or profess belief in, the state motto.

The logic of the Court's opinion leads to startling, and I believe totally unacceptable, results. For example, the mottoes "In God We Trust" and "E Pluribus Unum" appear on the coin and currency of the United States. I cannot imagine that the statutes proscribing defacement of United States currency impinge upon the First Amendment rights of an atheist. The fact that an atheist carries and uses United States currency does not, in any meaningful sense, convey any affirmation of belief on his part in the motto "In God We Trust." Similarly, there is no affirmation of belief involved in the display of state license tags upon the private automobiles involved here.

I would reverse the judgment of the District Court.