



[Home](#) → [News Releases](#) → Release

Ninth Circuit Declares Victory for the First Amendment in ACLU/SC Lawsuit

Thursday, November 3, 2005

LOS ANGELES - The Ninth Circuit Court of Appeals struck down a state statute today that violated Californians' First Amendment rights after the ACLU of Southern California - along with ACLU offices in San Diego and San Francisco - filed suit.

"The case reaffirms the principle that the First Amendment doesn't play favorites. The core purpose of the amendment is to afford citizens a voice as to the performance of government," said ACLU/SC Legal Director Mark Rosenbaum, who argued the case in front of the court of appeals last year.

The decision came in the case of Darren David Chaker, a San Diego man who filed an abuse complaint against an El Cajon police officer who arrested him in 1996. Two years later, Chaker was convicted by a San Diego jury of a misdemeanor for knowingly filing a false allegation against an officer.

Circuit Court Judge Harry Pregerson wrote in his opinion for the three-judge panel: "Within the limited context of that investigation, Section 148.6 criminalizes knowingly false speech critical of peace officer conduct, but leaves unregulated knowingly false speech supportive of peace officer conduct. Because we conclude that the statute impermissibly discriminates on the basis of a speaker's viewpoint in violation of the First Amendment, we reverse the district court and grant the petition."

In April 2003, the ACLU filed an amicus brief with the U.S. District Court, one of the ACLU's ongoing challenges to the constitutionality of the state code. The district court held that the statute was unconstitutional, while the California Supreme Court held it constitutional in another case. The Ninth Circuit Court of Appeals issued its ruling this morning.



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