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PRIVACY RIGHTS vs FREEDOM OF SPEECH

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In a case testing the limits of free speech, a Kansas group that attracted nationwide attention for its angry, anti-gay protests at the funerals of U.S. military members has won its appeal at the Supreme Court, by an 8-1 vote. The Supreme Court held that members of Westboro Baptist Church had a right to promote what they call a broad-based message on public matters such as wars. The father of a fallen Marine had sued the church, saying those protests amounted to targeted harassment and an intentional infliction of emotional distress. A jury awarded the family a large amount of money.

In overturning the jury verdict, a majority of the Supreme Court stated "Speech is powerful. It can stir people to action, move them to tears of both joy and sorrow, and -- as it did here -- inflict great pain. On the facts before us, we cannot react to that pain by punishing the speaker." The primary issue in the case was determining the limits of the difficult balance between the privacy rights of grieving families and the free speech rights of demonstrators, however disturbing and provocative their message.

In response to the church's insensitive behavior, several states have now imposed specific limits on when and where the church members can protest.

In defining the limits of protection of free speech, and while ruling in favor of the Kansas group, the Court showed little sympathy for the message it promotes. "Westboro believes that America is morally flawed; many Americans might feel the same about Westboro. Westboro's funeral picketing is certainly hurtful and its contribution to public discourse may be negligible." However, "As a nation we have chosen a different course -- to protect even hurtful speech on public issues to ensure that we do not stifle public debate."

Only Justice Samuel Alito dissented. Justice Alito – perhaps speaking for the majority of Americans on this issue - said the church's "outrageous conduct caused petitioner great injury, and the court now compounds that injury by depriving petitioner of a judgment that acknowledges the wrong he suffered," he said. "In order to have a society in which public issues can be openly and vigorously debated, it is not necessary to allow the brutalization of innocent victims like petitioner."

Notwithstanding the facts of this case, the Supreme Court has never addressed the specific issue of laws designed to protect the sanctity and dignity of a memorial service, nor has the Court explicitly addressed the privacy of family and friends of the deceased. The Court has recognized a state's interest in protecting people from unwanted protests or communications while in their homes. However, the Court refused to extend that protection to a funeral.

The unfortunate irony in this matter is that our servicemen and servicewomen have died to protect the freedoms we enjoy – including the freedom of speech that has been so thoroughly abused by this group from Kansas.

There are grieving families who do not deserve hate, but deserve to be loved and supported. If you know of such a family, or know any veteran, please take the time to thank them for their service and sacrifice to our country.