



Supreme Court to Hear Military Funeral Picketing Case

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The Supreme Court has agreed to consider *Snyder v. Phillips* (09-751), a case involving a stridently anti-gay Kansas preacher and members of his congregation who picket military funerals. The Appellant, Albert Snyder, brought numerous tort claims against Phelps in district court and attained a \$5 million judgment. The Fourth Circuit vacated the judgment on First Amendment grounds and now the Supreme Court will consider whether to reinstate the district court's judgment.

Fred Phelps is the founder and leader of Westboro Baptist Church, which is located in Topeka, Kansas. The church has approximately sixty members, fifty of whom are his children, grandchildren, or in-laws. The church describes itself as a fundamentalist Christian church that practices a fire and brimstone orthodoxy. It contends that God kills soldiers in Iraq and Afghanistan as punishment for America's tolerance of homosexuality and for the presence of gays in the U.S. military. To advance its message, the church stages protests at the funerals of U.S. soldiers killed in action. The church also operates a number of websites, including one called "godhatesfags.com," on which it disseminates its rabidly anti-homosexual views.

Albert Snyder's son, Lance Corporal Matthew Snyder, was a U.S. Marine who was killed on March 3, 2006 during active service in Iraq. His body was returned to the United States, and his family held a funeral for him on March 10, 2006 in Westminster, Maryland.

Fred Phelps and members of his congregation picketed Matthew's funeral, holding signs expressing anti-gay, anti-American, and anti-Catholic slogans, including "God Hates the USA," "America is doomed," "Pope in hell," "Fag Troops," "Thank God for IEDs," "God hates you," and "You're going to hell."

After returning to Kansas, Phelps and his church published an "epic" on its website. In "The Burden of Marine Lance Cpl. Matthew A. Snyder" Phelps and his followers claimed that Albert and his wife "raised [Matthew] for the devil." That God, through an IED, "RIPPED [Matthew's] body apart and taught Matthew to defy his Creator, to divorce, and to commit adultery," "taught him how to support the largest pedophile machine in the history of the entire world, the Roman Catholic monstrosity," and "taught Matthew to be an idolator."

Albert sued Phelps under Maryland state law, and won a \$10.9 million jury verdict based on claims of intrusion upon seclusion, intentional infliction of emotional distress, and civil conspiracy. The verdict included \$2.9 million for compensatory damages and \$8 million in punitive damages. The district court entered judgment on the

verdict, but remitted the jury's punitive damages award to \$2.1 million.

The Fourth Circuit reversed. Two judges on the panel held that Phelps's speech, although distasteful, was hyperbolic and metaphorical and not directed at any specific person. The court also found that the speech involved matters of public concern, such as gays serving in the military, the sex-abuse scandal in the Catholic Church, and the moral and political conduct of the United States and its citizens.

A concurring judge found that although the appellant did not raise a sufficiency of the evidence challenge to the state law torts, the court should nevertheless consider the issue. After considering the evidence in the record, the concurring judge found the evidence insufficient to sustain the verdict.

In his petition for writ of certiorari, Albert argued that the Supreme Court's protection of speech about public issues does not extend "to private individuals versus private individuals." If it does apply, the petition said, "the victimized private individual is left without recourse." The petition also noted that the 4th Circuit's decision creates an incentive for private individuals to use hyperbolic language to gain constitutional protection "even if that language is targeted at another private individual at a private, religious funeral."

The Supreme Court will hear the case in its next term.

Related People

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