



Written by [Selwyn Duke](#) on December 12, 2012

Judge: “Choose Life” Out in North Carolina

Providing another example of why judicial review needs to be reviewed is U.S. District Court Judge James C. Fox, who just ruled that North Carolina may not offer its “Choose Life” license plates. And wait till you hear his reasoning (if you can call it that). Writes [MyFox8.com](#):



A federal judge has ruled it is unconstitutional for North Carolina to issue pro-life license plates unless the state offers similar plates supporting abortion rights.

Judge Fox concluded, “The State’s offering of a Choose Life license plate in the absence of a pro-choice plate constitutes viewpoint discrimination in violation of the First Amendment.”

Allow me to translate: “I, Caesarean Judge, don’t like pro-life messages. So I’m going to rule against the choose-life plate — because I can.”

Question: where in the Constitution is it forbidden for states — or the feds, for that matter — to engage in “viewpoint discrimination”? The Founding Fathers included no such provision, and for good reason.

They were neither on mind-altering medication nor were insane.

The fact is that the very business of governing involves “viewpoint discrimination.” After all, the state must enact laws. And a law, by definition, is the imposition of a viewpoint.

As an example, the battle over ObamaCare involved many viewpoints, two of which were “The federal government has no right to force citizens to purchase a product or service” and “The federal government does have a right to force citizens to purchase a product or service.” And the feds not only discriminated between those two viewpoints, they decided to impose one at the end of a gun.

So here is what’s implicit in Judge Fox’s reasoning: If the government’s viewpoint discrimination involves the forcible imposition of the viewpoint on others, it’s acceptable. But if the government is simply offering a vehicle through which citizens can voluntarily display a viewpoint, it’s not.

Another example of government viewpoint discrimination is public-service announcements. For instance, when the government uses tax money to promote the notion that our strength lies in our diversity, it has discriminated against the viewpoint that our strength certainly does not lie there.

Another issue here is hinted at by Chris Brook, legal director of the organization that filed the lawsuit against the pro-life plates, the American Civil Liberties Union of North Carolina Legal Foundation. He rendered the opinion, writes [MyFox8.com](#), that “the government cannot create an avenue to express one side of a political issue while denying an equal opportunity to citizens with an opposing view.” He perhaps was very clever to use the word “an” as opposed to “the,” as issues can suggest far more than just two viewpoints.

Just consider the matter at hand. The ACLU would find it acceptable if North Carolina offered an opposing message such as the euphemistic “Respect Reproductive Freedom,” but this would still leave



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great discrimination. What of the viewpoints, “Abortion Controls the Population,” “Abortionists Should be Aborted,” “Abortion is a Good,” and “Abortion is Racism” (an inordinate percentage of aborted babies are black)? Sure, these are fringe opinions, but so what? It is now our position that a viewpoint may suffer discrimination if it’s held only by a *minority*?

Of course, that is our position, as illustrated with the examples of laws and public-service announcements. Many (not all) reflect popular will that overrode opposing viewpoints whose embrace would have led to an opposing law or no legislation at all. This is called democracy.

The ACLU’s Brook also called Fox’s ruling a victory for “free speech rights.” This is nonsense as well, much like Sandra Fluke’s conflation of access to contraception with taxpayer financing of it. Citizens may display any kind of pro-abortion bumper sticker they wish on their vehicles. The government may not suppress a viewpoint, but this doesn’t mean that the government has to advocate for it equally.

Yet don’t be surprised at the conclusions drawn by Fox and Brooks. It is the reasoning of the unreasonable, the actions of those who take pride in mastering duplicitous law-craft and do what they do because they can. And I would respond in kind. If I controlled the N.C. government, I’d tell the judge that we will stop issuing abortion-related license plates altogether. Instead, we’ll offer one with an anti-suicide message.

It just so happens that it will also bear the words “Choose Life.”

And will have the exact same design as the pro-life plates.

You don’t expect us to spend money redesigning a plate given today’s budget crunches and all, do you?

And there’ll be no “viewpoint discrimination.” We’ll also offer a pro-suicide plate reading “Choose Death.” Fair is fair.

On the other hand, you could just resurrect the spirit of Thomas Jefferson and Andrew Jackson and tell Judge Fox that you’ve decided not to play, that judicial review has been reviewed and found wanting. I would say, you have made your ruling, judge. Now let’s see you enforce it.

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