CONTROLLING LEGAL PRINCIPLES

Free Exercise Clause Decision – The "Contemplation of Justice"

NAACP v. Button, 371 U.S. 415 (1963)

Because First Amendment freedoms need breathing space to survive, government may regulate in the area only with narrow specificity. Cantwell v. Connecticut, 310 U. S. 296, 310 U. S. 11.

It is apparent, therefore, that Chapter 33, as construed, limits First Amendment freedoms. As this Court said in Thomas v. Collins, 323 U. S. 516, 323 U. S. 537, "Free trade in ideas' means free trade in the opportunity to persuade to action, not merely to describe facts."

In NAACP v. Alabama ex rel. Patterson, 357 U. S. 449, 357 U. S. 461, we said,

"In the domain of these indispensable liberties, whether of speech, press, or association, the decisions of this Court recognize that abridgment of such rights, even though unintended, may inevitably follow from varied forms of governmental action."

Later, in Bates v. Little Rock, 361 U. S. 516, 361 U. S. 524, we said,

"[w]here there is a significant encroachment upon personal liberty, the State may prevail only upon showing a subordinating interest which is compelling."

Most recently, in Louisiana ex rel. Gremillion v. NAACP, 366 U. S. 293, 366 U. S. 297, we reaffirmed this principle:

". . . regulatory measures . . . no matter how sophisticated, cannot be employed in purpose or in effect to stifle, penalize, or curb the exercise of First Amendment rights."