

CONTROLLING LEGAL PRINCIPLES

Free Exercise Clause Decision – The “Contemplation of Justice”

KNOX v. SERVICE EMPLOYEES INTERN. UNION 132 S.Ct. 2277 (2012)



The First Amendment creates "an open marketplace" in which differing ideas about political, economic, and social issues can compete freely for public acceptance without improper government interference. *New York State Bd. of Elections v. Lopez Torres*, 552 U.S. 196, 208, 128 S.Ct. 791, 169 L.Ed.2d 665 (2008). See also *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46, 51, 108 S.Ct. 876, 99 L.Ed.2d 41 (1988); *Mills v. Alabama*, 384 U.S. 214, 218-219, 86 S.Ct. 1434, 16 L.Ed.2d 484 (1966). ***The government may not prohibit the dissemination of ideas that it disfavors, nor compel the endorsement of ideas that it approves.*** See *R.A.V. v. St. Paul*, 505 U.S. 377, 382, 112 S.Ct. 2538, 120 L.Ed.2d 305 (1992); *Brandenburg v. Ohio*, 395 U.S. 444, 447-448, 89 S.Ct. 1827, 23 L.Ed.2d 430 (1969) (*per curiam*); *West Virginia Bd. of Ed. v. Barnette*, 319 U.S. 624, 63 S.Ct. 1178, 87 L.Ed. 1628 (1943); *Wooley v. Maynard*, 430 U.S. 705, 713-715, 97 S.Ct. 1428, 51 L.Ed.2d 752 (1977); *Riley v. National Federation of Blind of N.C., Inc.*, 487 U.S. 781, 797, 108 S.Ct. 2667, 101 L.Ed.2d 669 (1988) ***(The First Amendment protects "the decision of both what to say and what not to say" (emphasis deleted)).*** And the ability of like-minded individuals to associate for the purpose of expressing commonly held views may not be curtailed. See *Roberts v. United States Jaycees*, 468 U.S. 609, 623, 104 S.Ct. 3244, 82 L.Ed.2d 462 (1984) ***("Freedom of association . . . plainly presupposes a freedom not to associate")***; *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 460-461, 78 S.Ct. 1163, 2 L.Ed.2d 1488 (1958).

Closely related to compelled speech and compelled association is compelled funding of the speech of other private speakers or groups. See *Abood*, 431 U.S., at 222-223, 97 S.Ct. 1782. In *United States v. United Foods, Inc.*, 533 U.S. 405, 121 S.Ct. 2334,

[132 S.Ct. 2289]

