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Right Not To Speak

by Ronald F. Greenbaum

The Supreme Court of the United States, affirming the decision of the United States District Court for the District of New Hampshire held on April 20, 1977, that the state of New Hampshire may not constitutionally enforce criminal sanctions against persons who cover the motto "Live Free or Die" on passenger vehicle license plates because they find that motto repugnant to their moral and religious beliefs. *Wooley v. Maynard*, 97 S.Ct. 1428 (1977).

In 1969, the New Hampshire Legislature passed a statute requiring all non commercial vehicles to bear the state motto "Live Free or Die" on their license plates. Another state statute creates a misdemeanor of intentionally obscuring the figures and letters on license plates.

The appellees, George and Maxine Maynard, followers of the religious faith Jehovah's Witnesses, believe that dying is repugnant to their moral, religious and political beliefs. The Maynard's believe in

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everlasting life and would rather live in bondage than give up their lives.

The Appellees were prosecuted three times within a five week span for clipping and covering the motto portion of their license plate. They brought suit in the District Court pursuant to 42 U.S.C. § 1983, seeking injunctive relief from further criminal prosecutions and for requiring license plates not to bear the state motto.

Subsequently, a three judge District Court was convened which enjoined the State from arresting and prosecuting the Appellees in the future for covering the motto portion of their plates.

The Supreme Court was confronted with the question of whether a state may constitutionally require an individual to participate in the dissemination of an ideological message by displaying it on private property for the express purpose that it be observed and read by the public.

The Court was of the opinion that the right of freedom of thought, protected by the First Amendment, includes both the right to speak and the right to not speak at all. The Court was also of the opinion that the right to speak and the right to refrain from speaking are complementary compo-

nents of the broader concept of "individual freedom of mind."

The New Hampshire statute forced the Appellees to disseminate the motto as part of their daily lives, at least while their vehicle was in public view. The Court found this to be an instrument for fostering public adherence to an ideological point of view. The state statute required the Appellees to use their motor vehicle as a "mobile billboard" for the state's ideological message, or suffer prosecution for non-compliance. Statutorily forcing one to disseminate information in violation of his or her beliefs invades the sphere of intellect and spirit which it is the very purpose of the First Amendment to protect the opinion noted.

New Hampshire advanced two interests why "Live Free or Die" should be displayed. The first interest being that the motto facilitates the identification of passenger vehicles. The second interest presented was that the motto promotes an appreciation of history, individualism and state pride.

The Court was of the opinion that the state's first interest did not facilitate a rational means to identify passenger vehicles. The Court found that this purpose of the motto should not be pursued by means that broadly stifle fundamental liberties when that end could be achieved by other means.

Recognizing that the appellees' interests were protected by the First Amendment, the Court was of the opinion that the state's second interest was not compelling. The state could have pursued its interest in a different way, rather than to compel the display of an ideology that was repugnant to some. An individual's First Amendment rights cannot be outweighed by the state's interest to disseminate an ideology by compelling an individual to be the courier of that ideology, no matter how acceptable to the majority.



Photo courtesy of John Clark Mayden