

Your Facebook “Like” May Be Constitutionally-Protected Speech

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Like Dislike

According to a recent decision by the United States Court of Appeals for the Fourth Circuit, pressing the “like” button on your Facebook page constitutes substantive speech that may be protected by the First Amendment.

Six employees of the Hampton, Virginia Sheriff’s Office were dismissed because they showed support for Sheriff B.J. Roberts’ electoral opponent. They filed suit against Sheriff Roberts, claiming in part that their terminations violated the First Amendment. The United States District Court for the Eastern District of Virginia granted summary judgment to Sheriff Roberts, in part because the court found that the employees failed to allege that they had engaged in protected speech.

The plaintiff of significance in this matter, Roy Carter, Jr., claimed his protected speech in support for Sheriff Roberts’ opponent came in the form of a Facebook “like” for the opponent’s page. The Eastern District of Virginia held that the thumbs-up button by itself did not constitute sufficient speech to merit First Amendment protection. Not so, ruled the Fourth Circuit – when Carter pressed “like,” he caused to be published on his Facebook profile and on his friends’ news feeds that he liked Sheriff Roberts’ opponent’s campaign, which is a substantive statement.

“That a user may use a single mouse click to produce the message that he likes the page instead of typing the same message with several individual key strokes is of no constitutional significance,” held the court. Further, the Court stated that hitting the “like” button is the internet equivalent of displaying a political sign in one’s front yard, which the Supreme Court has held constitutes substantive speech.

The district court’s ruling was reversed for Carter and two other plaintiffs and the matter was remanded. Although the three remaining plaintiffs may not recover monetary damages because of the sheriff’s Eleventh Amendment immunity, they may have an opportunity to be reinstated.

The full text of *Bland v. Roberts* may be [found here](#).

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