

The United States Supreme Court On Government Efforts To Dictate Speech, Reiterating Its Never-Disturbed, Rock-Solid, No-Exceptions Position

“It is, however, a basic First Amendment principle that **“freedom of speech prohibits the government from telling people what they must say.”** *Rumsfeld v. Forum for Academic and Institutional Rights, Inc.*, 547 U. S. 47, 61 (2006) (citing *West Virginia Bd. of Ed. v. Barnette*, 319 U. S. 624, 642 (1943), and *Wooley v. Maynard*, 430 U. S. 705, 717 (1977)). **“At the heart of the First Amendment lies the principle that each person should decide for himself or herself the ideas and beliefs deserving of expression, consideration, and adherence.”** *Turner Broadcasting System, Inc. v. FCC*, 512 U. S. 622, 641 (1994); see *Knox v. Service Employees*, 567 U. S. ___, ___–___ (2012) (slip op., at 8–9) (“**The government may not . . . compel the endorsement of ideas that it approves.**”).

...

“[W]e cannot improve upon what Justice Jackson wrote for the Court 70 years ago: “If there is any fixed star in our constitutional constellation, it is that **no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.**” *Barnette*, 319 U. S., at 642.”

Agency for Int’l Development v. Alliance for Open Society Int’l, Inc., 570 U.S. __ (2013) (Emphasis added.)

The Sixth Circuit Court Of Appeals On The Subject When Actually Considering The Issue, With Lockstep Support From Every Single Other Circuit

"The Supreme Court has unequivocally admonished that **even minimal infringement upon First Amendment values constitutes irreparable injury** sufficient to justify injunctive relief.

It is clear therefore that First Amendment interests were either threatened or in fact being impaired at the time relief was sought. **The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.**

Elrod v. Burns, 427 U.S. 347, 373, 96 S.Ct. 2673, 2690, 49 L.Ed.2d 547 (1976) (plurality opinion of Brennan, J.); *id.* at 374-75, 96 S.Ct. at 2690 (Stewart, J., concurring in judgment) (termination from employment for political reasons violated First Amendment rights; injunctive relief properly accorded under such circumstances).

...

"It is well settled that the loss of First Amendment freedoms for even minimal periods of time constitutes irreparable injury justifying the grant of a preliminary injunction." *Deerfield Medical Center v. City of Deerfield Beach*, 661 F.2d 328, 338 (5th Cir. Unit B 1981).... **So too, direct penalization, as opposed to incidental inhibition, of First Amendment rights constitutes irreparable**

injury. *Johnson v. Bergland*, 586 F.2d 993, 995 (4th Cir.1978) (transfer of employee allegedly for exercise of First Amendment rights; "[v]iolations of first amendment rights constitute per se irreparable injury"); *Citizens for a Better Environment v. City of Park Ridge*, 567 F.2d 689 (7th Cir.1975)....

One reason for such stringent protection of First Amendment rights certainly is the intangible nature or the benefits flowing from the exercise of those rights; and the fear that, if these rights are not jealously safeguarded, persons will be deterred, even if imperceptibly, from exercising those rights in the future.... This does not mean, however, that only if a plaintiff can prove actual, current chill can he prove irreparable injury. On the contrary, direct retaliation by the state for having exercised First Amendment freedoms in the past is particularly proscribed by the First Amendment. *Mt. Healthy City School Dist. v. Doyle*, 429 U.S. at 283-87, 97 S.Ct. at 574-76; *Elrod v. Burns*, 427 U.S. 347, 96 S.Ct. 2673, 49 L.Ed.2d 547 (1976); *Cohen v. California*, 403 U.S. 15, 91 S.Ct. 1780, 29 L.Ed.2d 284 (1971).

Cate v. Oldham, 707 F.2d 1176, 1188-89 (11th Cir.1983); accord *Romero Feliciano v. Torres Gaztambide*, 836 F.2d 1, 4 (1st Cir.1987); *Mariani Giron v. Acevedo Ruiz*, 834 F.2d 238, 239 (1st Cir.1987); *Branch v. Federal Communications Comm'n*, 824 F.2d 37, 40 (D.C.Cir.1987), *cert. denied*, 485 U.S. 959, 108 S.Ct. 1220, 99 L.Ed.2d 421 (1988); *Jimenez-Fuentes v. Torres Gaztambide*, 807 F.2d 230, 234 (1st Cir.1986), *cert. denied*, 481 U.S. 1014, 107 S.Ct. 1888, 95 L.Ed.2d 496 (1987); *Shondel v. McDermott*, 775 F.2d 859, 866-67 (7th Cir.1985); *Stegmaier v. Trammell*, 597 F.2d 1027, 1032 n. 4 (5th Cir.1979); *Johnson v. Bergland*, 586 F.2d 993, 995 (4th Cir.1978); compare *In re School Asbestos Litigation (School Dist. of Lancaster Manheim Township School Dist. v. Lake Asbestos of Quebec, Ltd.)*, 842 F.2d 671, 679 (3rd Cir.1988); *In re Providence Journal Co.*, 820 F.2d 1342, 1352 (1st Cir.1986), *modified en banc on other grounds*, 820 F.2d 1354 (1st Cir.1987), *cert. dismissed for lack of jurisdiction*, 485 U.S. 693, 108 S.Ct. 1502, 99 L.Ed.2d 785 (1988); *Taylor v. City of Fort Lauderdale*, 810 F.2d 1551, 1554 (11th Cir.1987); *Parents Ass'n of Public School 16 v. Quinones*, 803 F.2d 1235, 1242 (2nd Cir.1986); *American Civil Liberties Union of Illinois v. City of St. Charles*, 794 F.2d 265, 274 (7th Cir.), *cert. denied*, 479 U.S. 961, 107 S.Ct. 458, 93 L.Ed.2d 403 (1986); *San Diego Committee Against Registration & the Draft (CARD) v. Governing Bd. of Grossmont Union High School Dist.*, 790 F.2d 1471, 1473 n. 3 (9th Cir.1986); *Lydo Enter., Inc. v. City of Las Vegas*, 745 F.2d 1211, 1214 (9th Cir.1984); *Libertarian Party of Indiana v. Packard*, 741 F.2d 981, 985 (7th Cir.1984); *Ebel v. City of Corona*, 698 F.2d 390, 393 (9th Cir.1983); *Deerfield Medical Center v. City of Deerfield Beach*, 661 F.2d 328, 338 (5th Cir. Unit B Nov. 1981); *Community Communications Co., Inc. v. City of Boulder*, 660 F.2d 1370, 1376 (10th Cir.1981), *cert. dismissed by agreement of parties*, 456 U.S. 1001, 102 S.Ct. 2287, 73 L.Ed.2d 1296 (1982); *Florida Businessmen for Free Enter. v. City of Hollywood*, 648 F.2d 956, 958 (5th Cir. Unit B June 1981); cf. *Lowary v. Lexington Local Bd. of Educ.*, 854 F.2d 131 (6th Cir.1988); *Damiano v. Matish*, 830 F.2d 1363 (6th Cir.1987); *Tierney v. City of Toledo*, 824 F.2d 1497, 1507 (6th Cir.1987).

Newsom v. Morris, 888 F.2d 371 (6th Cir. 1989).

Rulings On The Subject Of Void Judgments

“[A void judgment is one that] has been procured by extrinsic or collateral fraud, or entered by a Court that did not have jurisdiction over subject matter or the parties.”

Rook v. Rook, 353 S.E. 2d 756 (Va. 1987);

“[D]enying a motion to vacate a void judgment is a per se abuse of discretion.”

Burrell v. Henderson, et al., 434 F.3d 826, 831 (6th CA 2006);

“If the trial court was without subject matter jurisdiction of defendant's case, his conviction and sentence would be void *ab initio*.”

State v. Swiger, 125 Ohio.App.3d 456, (1998);

“[I]t is well established that federal courts are courts of limited jurisdiction, possessing only that power authorized by the Constitution and statute.”

Hudson v. Coleman, 347 F.3d 138, 141 (6th Cir. 2003).

“A "void" judgment, as we all know, grounds no rights, forms no defense to actions taken thereunder, and is vulnerable to any manner of collateral attack (thus here, by habeas corpus). No statute of limitations or repose runs on its holdings, the matters thought to be settled thereby are not *res judicata*, and years later, when the memories may have grown dim and rights long been regarded as vested, any disgruntled litigant may reopen old wounds and once more probe its depths. And it is then as though trial and adjudication had never been.”

Fritts v. Krugh, Supreme Court of Michigan, 92 N.W.2d 604, 354 Mich. 97 (1958).

“Accordingly, cases require a party seeking to show fraud on the court to present clear and convincing evidence of the following elements: “1) [conduct] on the part of an officer of the court; that 2) is directed to the judicial machinery itself; 3) is intentionally false, willfully blind to the truth, or is in reckless disregard of the truth; 4) is a positive averment or a concealment when one is under a duty to disclose; and 5) deceives the court.”

Johnson v. Bell, 605 F.3d 333, 339 (6th Cir. 2010); (quoting *Carter v. Anderson*, 585 F.3d 1007, 1011–12 (6th Cir. 2009)).

“We think, however, that it can be reasoned that a decision produced by fraud on the court is not in essence a decision at all, and never becomes final.”

Kenner v. C.I.R., 387 F.2d 689, (7th CA, 1968);

Black's Law Dictionary, Sixth Edition, page 1574

Void judgment. One which has no legal force or effect, invalidity of which may be asserted by any person whose rights are affected at any time and at any place directly or collaterally. *Reynolds v. Volunteer State Life Ins. Co.*, Tex.Civ.App., 80 S.W.2d 1087, 1092. One which from its inception is and forever continues to be absolutely null, without legal efficacy,

ineffectual to bind parties or support a right, of no legal force and effect whatever, and incapable of confirmation, ratification, or enforcement in any manner or to any degree. Judgment is a "void judgment" if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process. *Klugh v. U.S., D.C.S.C.*, 610 F.Supp. 892, 901.

UNITED STATES v. DICKINSON 465 F.2d 496 (1972)

[I]t is obvious that if the order requires an *irrevocable* and permanent surrender of a constitutional right, it cannot be enforced by the contempt power. For example, a witness cannot be punished for contempt of court for refusing a court order to testify if the underlying order violates Fifth, Fourth or perhaps First Amendment rights. *Malloy v. Hogan*, 1964, 378 U.S. 1, 84 S.Ct. 1489, 12 L.Ed.2d 653; *Silverthorne Lumber Co. v. United States*, 1920, 251 U.S. 385, 40 S.Ct. 182, 64 L.Ed. 319; *Gelbard v. United States*, 1972, 408 U.S. 41, 92 S.Ct. 2357, 33 L.Ed.2d 179. In each of these cases the unconstitutionality of the court's order served as a valid defense to a charge of contempt. The rationale of these cases is that once the witness has complied with an order to testify he cannot thereafter retrieve the information involuntarily revealed, even if it subsequently develops that compelling the testimony violated constitutional rights. In such a predicament, the damage is irreparable. No remedies are available which can effectively cure the constitutional deprivation after the order has been unwillingly obeyed.