

CASE LAW INDEX

★ denotes a legal citation has been verified.

Bennett v. Boggs, 1 Baldw 60,

“Statutes that violate the plain and obvious principles of common right and common reason are null and void”.

★ **Davis v. Wechsler, 263 U.S. 22, 24 (1923)**

“Whatever springs the State may set for those who are endeavoring to assert rights that the State confers, the assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice.”

★ **Miranda v. Arizona, 384 U.S. 436, 491 (1966)**

“Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.”

★ **Miller v. U.S. 230 F. 2d 286, 489 (1956)**

“Execution of process and the performance of duty by constituted officers must not be thwarted. But these agents, servants of a Government and a society whose existence and strength comes from these constitutional safeguards, are serving law when they respect, not override, these guarantees. The claim and exercise of a constitutional right cannot thus be converted into a crime.”

★ **Sherar v. Cullen, 481 F.2d 945, 947 (9th Cir. 1973)**

“...that there be no sanction or penalty imposed upon one because of his exercise of constitutional rights.”

★ **Norton v. Shelby County, 118 U.S. 425, 426 (1886)**

“An unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed.”

★ **City of Dallas v. Mitchell, 245 S.W. 944, 945 (Tex. Civ. App. 1922)**

“The rights of the individual are not derived from governmental agencies, either municipal, state or federal, or even from the Constitution. They exist inherently in every man, by endowment of the Creator, and are merely reaffirmed in the Constitution, and restricted only to the extent that they have been voluntarily surrendered by the citizenship to the agencies of government.”

★ **Cooper v. Aaron, 358 U.S. 1, 3 (1958)**

“No state legislator or executive or judicial officer can war against the Constitution without violating his solemn oath to support it.”

★ **Marbury v. Madison, 5 U.S. 137, 180 (1803)**

“Thus, the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void; and that courts, as well as other departments, are bound by that instrument.”

★ **Ex Parte Young, 209 U.S. 123, 159-60 (1908)**

“The answer to all this is the same as made in every case where an official claims to be acting under the authority of the State. The act to be enforced is alleged to be unconstitutional, and if it be so, the use of the name of the State to enforce an unconstitutional act to the injury of complainants is a proceeding without the authority of and one which does not affect the State in its sovereign or governmental capacity. It is simply an illegal act upon the part of a state official in attempting by the use of the name of the State to enforce a legislative enactment which is void because unconstitutional. If the act which the state Attorney General seeks to enforce be a violation of the Federal Constitution, the officer in proceeding under such enactment comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States.”

Murdock v. Pennsylvania, 319 U.S. 105

"No state shall convert a liberty into a license, and charge a fee therefore."

★ **Blue Island v. Kozul, 379 Ill. 511, 519, 41 N.E.2d 515, 519.**

“A person cannot be compelled 'to purchase, through a license fee or a license tax, the privilege freely granted by the constitution.”

Shuttlesworth v. City of Birmingham, Alabama, 373 U.S. 262

"If the State converts a right (liberty) into a privilege, the citizen can ignore the license and fee and engage in the right (liberty) with impunity."

★ **Nudd v. Burrows, 91 U.S. 426, 440 (1875)**

“Fraud destroys the validity of every thing into which it enters.”

★ **Olmstead v. United States, 277 U.S. 438, 478 (1928)**

“the right to be let alone — the most comprehensive of rights and the right most valued by civilized men. To protect that right, every unjustifiable intrusion by the Government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the Fourth Amendment.”

★ **Elmore v. McCammon, 640 F. Supp. 905, 911 (S.D. Tex. 1986)**

“To be certain, the right to file a lawsuit pro se is one of the most important rights under our Constitution and laws. ”

★ **Cooper v. Aaron, 358 U.S. 1, 3 (1958)**

“No state legislator or executive or judicial officer can war against the Constitution without violating his solemn oath to support it”

★ **Cruden v. Neale, 2 N.C. 338, (N.C. Super. 1796)**

“There, every man is independent of all laws, except those prescribed by nature. He is not bound by any institutions formed by his fellowmen without his consent.”

★ **Nickens v. Muse, No. 611, 3 n.1 (Md. Ct. Spec. App. Apr. 14, 2021)**

“Inasmuch as every government is an artificial person, an abstraction, and a creature of the mind only, can interface only with other artificial persons. The imaginary, having neither actuality nor substance, is foreclosed from creating and attaining parity with the tangible. The legal manifestation of this is that no government, as well as any law, agency, aspect, court, etc. can concern itself with anything other than corporate, artificial persons and the contracts between them.”

★ **Picking v. Pennsylvania R. Co., 151 F.2d 240, 243 (3d Cir. 1945)**

“Where a plaintiff pleads pro se in a suit for the protection of civil rights the court should endeavor to construe the plaintiff’s pleading without regard for technicalities.”

★ **Wilson v. United States, 221 U.S. 361, 383 (1911)**

“The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the State or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the State, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law. He owes nothing to the public so long as he does not trespass upon their rights.”

★ **Donnelly v. DeChristoforo, 416 U.S. 637, 650-51 (1974)**

“The prosecutor is not a witness; and he should not be permitted to add to the record either by subtle or gross improprieties. Those who have experienced the full thrust of the power of government when leveled against them know that the only protection the citizen has is in the requirement for a fair trial.”

★ **Mattox v. United States, 156 U.S. 237, 243 (1895)**

“We are bound to interpret the Constitution in the light of the law as it existed at the time it was adopted, not as reaching out for new guaranties of the rights of the citizen, but as securing to every individual such as he already possessed as a British subject — such as his ancestors had inherited and defended since the days of Magna Charta.”

Poindexter v. Greenhow, 114 U.S. 270, 303 (1885). Brady v. U.S., 397 U.S. 742, 748, (1970)

"Waivers of Constitutional Rights, not only must they be voluntary, they must be knowingly intelligent acts done with sufficient awareness."

★ **J. A. Fay & Egan Co. v. Louis Cohn & Bros., 158 Miss. 733, (Miss. 1930)**

“Fraud vitiates everything it enters into”

★ **United States v. Throckmorton, 98 U.S. 61, 64 (1878)**

“There is no question of the general doctrine that fraud vitiates the most solemn contracts, documents, and even judgments.”

★ **Hurtado v. California, 110 U.S. 516, 536-37 (1884)**

"It must be conceded that there are such rights in every free government beyond the control of the State. A government which recognized no such rights, which held the lives, the liberty, and the property of its citizens subject at all times to the absolute disposition and unlimited control of even the most democratic depository of power, is after all but a despotism."

★ **Bank of Columbia v. Okely, 17 U.S. 235, 244 (1819)**

"As to the words from Magna Charta, incorporated into the constitution of Maryland, after volumes spoken and written with a view to their exposition, the good sense of mankind has at length settled down to this: that they were intended to secure the individual from the arbitrary exercise of the powers of government, unrestrained by the established principles of private rights and distributive justice."

952 F.2d. 457, 293 U.S. App. DC 101, (CA DC 1991).

"It is the duty of all officials whether legislative, judicial, executive, administrative, or ministerial to so perform every official act as not to violate constitutional provisions."

★ **Hale v. Henkel, 201 U.S. 43, 74 (1906)**

"We are of the opinion that there is a clear distinction in this particular between an individual and a corporation, and that the latter has no right to refuse to submit its books and papers for an examination at the suit of the State. The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the State or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the State, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law. He owes nothing to the public so long as he does not trespass upon their rights."

Berberian v. Lussier (1958) 139 A2d 869, 872 "The RIGHT of the citizen to DRIVE on the public street with freedom from police interference, unless he is engaged in suspicious conduct associated in some manner with criminality is a FUNDAMENTAL CONSTITUTIONAL RIGHT which must be protected by the courts."

★ **Yick Wo v. Hopkins, 118 U.S. 356, 369-70 (1886)**

"When we consider the nature and the theory of our institutions of government, the principles upon which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power. **Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts.** And the law is the definition and limitation of power. It is, indeed, quite true, that there must always be lodged somewhere, and in some person or body, the authority of final decision; and in many cases of mere administration the responsibility is purely political, no appeal lying except to

the ultimate tribunal of the public judgment, exercised either in the pressure of opinion or by means of the suffrage. But the fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions, are secured by those maxims of constitutional law which are the monuments showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws, so that, in the famous language of the Massachusetts Bill of Rights, the government of the commonwealth "may be a government of laws and not of men." For, the very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself."

★ **Washington v. Harper, 494 U.S. 210, 237-38 241 (1990)**

"Every violation of a person's bodily integrity is an invasion of his or her liberty. The invasion is particularly intrusive if it creates a substantial risk of permanent injury and premature death. Moreover, any such action is degrading if it overrides a competent person's choice to reject a specific form of medical treatment. And when the purpose or effect of forced drugging is to alter the will and the mind of the subject, it constitutes a deprivation of liberty in the most literal and fundamental sense." "There is no doubt, as the State Supreme Court and other courts that have analyzed the issue have concluded, **that a competent individual's right to refuse such medication is a fundamental liberty interest deserving the highest order of protection."**

Lower Court Decisions to Watch

Robinson v. MO Dep't. of Health & Senior Svc's, 20AC-CC00515 (Nov. 2021)

"The unfettered opinions of unelected bureaucrats cannot abolish representative government in the creation of public health laws. Such officials do not have the jurisdiction or authority to create or enforce mandates."

★ **BST Holdings v. Occupational Safety & Health Admin., 17 F.4th 604, 618-19 (5th Cir. 2021)**

"The public interest is also served by maintaining our constitutional structure and maintaining the liberty of individuals to make intensely personal decisions according to their own convictions—even, or perhaps particularly, when those decisions frustrate government officials."

* * *

"The Constitution vests a limited legislative power in Congress. For more than a century, Congress has routinely used this power to delegate policymaking specifics and technical details to executive agencies charged with effectuating policy principles Congress lays down. In the mine run of cases—a transportation department regulating trucking on an interstate highway, or an aviation agency regulating an airplane lavatory—this is generally well and good. But health agencies do not make housing policy, and occupational safety administrations do not make health policy. Cf. Ala. Ass'n of Realtors, 141 S. Ct. at 2488–90. In seeking to do so here, OSHA runs afoul of the statute from which it draws its power and, likely, violates the constitutional structure that safeguards our collective liberty."