

U.S. Supreme Court Limits Rights Suits

LEGIS

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The Supreme Court ruled yesterday that police do not violate the constitutional rights of citizens by publicly branding them as active criminals, even when they have never been convicted of a crime.

By a 5-to-3 vote the bitterly divided court held that circulating such defamatory information, no matter how harmful to an individual's reputation, does not expose government officials to lawsuits for invasion of civil rights.

The decision called into question a trend in the lower federal courts toward curbing the FBI and police in their dissemination of incomplete or inaccurate criminal records.

None of the high court's rulings, Justice William H. Rehnquist wrote for the majority, supported a claim that officials "may not publicize a record of an official act such as an arrest."

Maligned individuals may have a right to sue for libel under state law, Rehnquist said, but they may not use the federal courts to sue for the deprivation of a constitutional right without due process of law.

The decision continued the high court's own recent trend of rulings, especially on police interrogation and searches, expanding the power of government officials and limiting the safeguards accorded to

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individuals who have brushes with the law.

It cut down on Supreme Court precedents protecting individuals against blacklisting by government agencies and congressional committees investigating alleged subversives and organized crime figures.

The court dismissed a suit for damages by Edward D. Davis III of Louisville over a police circular, distributed to 800 merchants during the 1972 Christmas season, listing Davis among "active shoplifters" for whom shopkeepers should be on the alert.

Davis had been arrested the previous year but the charges against him were dropped.

Davis, is a photographer for the Louisville Courier Journal and Times, and had no record of criminal convictions.

The flyer, which included a "mug shot" of Davis, came to his supervisor's attention. The supervisor warned Davis that he would not be fired but he "had best not find himself in a similar situation" in the future.

In dissent, Justice William J. Brennan Jr. said the injury to Davis' reputation and the hazard to his job security were more than enough to warrant relief in federal court.

"The court today holds that police officials, acting in their official capacities as law enforcers, may on their initiative and without trial constitutionally condemn innocent individuals as criminals and thereby brand them with one of the most stigmatizing and debilitating labels in our society," Brennan said.

He added, "If there are no constitutional restraints on such oppressive behavior, the safeguards constitutionally accorded an accused in a criminal trial are rendered a sham, and no individual can feel secure that he will not be arbitrarily singled out for similar ex parte punishment by those primarily charged with fair enforcement of the law."

But Rehnquist said the opposite ruling would expand federal civil rights law beyond "any logical stopping place," converting every injury inflicted by a government official into a constitutional violation.

Under that view, he said, a person arrested and charged with a crime could sue law enforcement officers "who announce that they believe such person to be responsible for a particular crime in order to calm the fears of an aroused populace."

And because the Constitution protects individuals from deprivation of life without due process, officials could be sued for constitutional violations for negligently killing someone in a traffic accident while driving a government vehicle, Rehnquist said.

Brennan's dissent called it "strange" that the court should downgrade the individual's right to a good name only three weeks after the court ruled, over his dissent, that "the same interest" (the individual's right to a good name) was sufficient to override the First Amendment.

On March 2 the court, in a libel case brought by socialite Mary Alice Firestone, expanded the right of socially prominent persons to sue for libel and rejected claims that the Constitution's free press guarantee restricted that right.

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