Texas v. Johnson Brandenburg

Author name

Affiliations

In 1984, respondent Johnson took part in a political protest to object the policies of the Reagan administration. During the protest, Johnson burned an American flag that caused no physical injury to any person. However, this flag burning offended several witnesses. As a result, he was convicted of a violation of the 1st amendment and Texas law that forbids destroying respected objects. He was fined $2,000 and was sentenced to one year in prison. His conviction was overturned with his appeal to the Texas Court of Criminal Appeals. The court motive was that the State could not penalize Johnson for burning the flag as the First Amendment defends such activity as symbolic speech. A symbolic speech is an expression of an idea such as flag waving and demonstrations.

According to the 1st amendment, “Congress shall make no law respecting an establishment of the religion, or prohibiting the free exercise or abridging the freedom of speech, or the right of the people to assemble peacefully”. Therefore, the government has no right to proscribe speech if it is disagreeable. It can only restrict speech for a legitimate government resolution. The speech can only be stopped if it is intended to lead to violence, likely to lead to violence and will lead to imminent violence. The Texas Court of Criminal reversed the appeal based on this 1st amendment. It further concluded that the State could not illegally approve flag desecration as it had not resulted in the serious disturbance. According to the court, as a result of arrest and fine, Johnson’s civil and constitutional liberties were definitely desecrated. Moreover, man’s expression of burning the flag is safeguarded in the United States Constitution. Therefore, based on the 1st Amendment to the United States Constitution, Johnson won the case as the symbolic speech is constitutionally protected even when it is offensive.