

The united states
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Graphic Cigarette Warning Labels Are Constitutional, U. S. Court Rules

Cigarettes contain over 4000 toxic chemical products, including thirty one chemicals that are very harmful and dangerous to the smoker as well as bystander's health. Smoking cigarettes will gradually affect the lungs as well as other organ systems. Smoking may cause cancer as well as heart disease and yet millions of people worldwide smoke cigarettes and thousands more pick up the habit daily. The FDA proposed the placement of graphic images in an effort to deter current and future smokers. The tobacco companies, R. J. Reynolds Tobacco Co. and Lorillard Tobacco Co. strongly opposed this idea and filed suit against the FDA claiming that it would be a violation of their right to free speech. I believe that cigarettes are bad, as many Americans do, however I do not think placing pictures of dead bodies and rotting lungs on cigarette packaging is the right way to deal with the problem. On March 19, 2012 a federal appeals court ruled that the warnings on cigarette labels were not a violation of the first amendment rights of the cigarette companies. Cigarette makers had unsuccessfully sued the Food and Drug Administration in an effort to eliminate the new labeling and advertising requirements. Cigarette makers feel that the new restrictions on packaging interfere with their right to communicate with adult consumers. I hate to say this, but I am actually on the side of the tobacco companies. I know that their product is deadly, but I do not really want to be reminded of this daily through the new proposed packaging and advertising. We live in the age of information. Those that smoke are well aware of the harmful effects of cigarette smoking. They do not continue smoking because they are unaware of the potential health risks, but rather because they are addicted to the product and cannot

kick the habit. Rather than forcing the cigarette companies to alter their packaging and advertising campaigns, I believe the tobacco companies should be made to provide assistance to those tobacco consumers wishing to quit smoking. I feel as though this would be a much more practical way to spend advertising dollars. Rather than showing people the harmful effects of cigarette smoking, of which most are well aware of, we should focus on promoting different outlets available for current smokers interested in quitting as well as deterring juveniles who may be curious about smoking. I feel as though this tactic of using gruesome images may have worked 50 years ago when the effects of cigarette smoking were not as well-known as they are today. Perhaps if people had known how deadly this habit was from the beginning cigarettes would have never become so popular. When the law was passed in 2009 Congress asked that the Food and Drug Administration come up with specific regulations as to the size and color of the warning labels. The FDA came to the decision that the labels must be in color, must cover the top 50 percent of a cigarette pack's front and back panels, and must cover the top 20 percent of print advertisements. After the failed lawsuit by the tobacco companies the FDA released 9 proposed images including, but not limited to, dead bodies, rotting teeth, and diseased lungs. Since these products are being sold to well informed consumers I believe this will be nothing but a waste of time and money which could be better spent on anti-smoking programs in schools as well as pro quitting programs for all current smokers. I also feel as though such gruesome images could be an embarrassment to those purchasing the cigarettes. Is this really the way to get people to quit? Shoving terrible pictures down their throats every time

they turn on the television, open a magazine, or walk into a gas station or convenience store. These images would also be out in the public in plain view of everyone; this would include young children as well as nonsmokers whom I do not feel should be exposed to such images. These proposed graphic images were released by the FDA after the tobacco companies filed their lawsuit and lost. Had these images been available prior to the case being heard I believe the outcome could have possibly been very different. I am not saying that the FDA is 100% wrong and the tobacco companies are 100% right; however I do believe they are going about this important cause in the wrong way. The cigarette companies argued that it was against the constitution to force them to " disseminate an anti-smoking message in order to stigmatize and embarrass already-informed consumers. "

Unfortunately the appeals court did not agree with the tobacco companies in regards to the new labeling requirements. The court does not believe that the negative emotions and disgust created by the images make the new requirements unconstitutional. The court however was not addressing each individual image but rather the constitutionality of using the images.

Hopefully they will retry the case and focus more on the content of each image to help determine what should and should not be used. According to Judge Clay, who decided to uphold most of the proposed FDA regulations, the government may be able to require that companies provide truthful information about what is in their product, but " it is less clearly permissible for the government to simply frighten consumers or to otherwise attempt to flagrantly manipulate the emotions of consumers as it seeks to do here."

This confuses me. If Judge Clay feels this way then why was the ruling not

over turned? I believe this is a very valid point. Does the government really have the right to scare consumers in this fashion? I don't believe they do. On February 29, 2012 another case involving these graphic images, was heard in Washington D. C. In this case the district judge found that the proposed images were in violation of the free-speech rights of the tobacco companies. He agreed with the tobacco companies that the images were too large. He also pointed out other potential ways in which the government can fight the tobacco companies' strong hold on Americans such as, " raising cigarette taxes and including factual information on the labels. I think these are much better options than large graphic images. In the first case I spoke about, where the court found the images constitutional, they also ruled that several other FDA regulations should continue to be enforced. These regulations include restrictions on the names of cigarettes such as " light" and " medium", giving out free samples, as well as sponsorship of certain events. I agree with all of these restrictions and believe they should be upheld. Labeling cigarettes as " light" may give individuals a false sense of the cigarette being better for them when the truth is that all cigarettes are dangerous to health. I believe the distribution of free samples is unnecessary, if someone wants a cigarette they can purchase them. I think the free samples have a high potential for ending up in the hands of minors who cannot buy cigarettes on their own. It's already easy enough for teens to start smoking; we should not make it any easier. I think that all of these other options brought up in both cases are much more viable ideas and plans than the use of these graphic images. Opinions obviously vary greatly on this topic. Seeing as how no one can seem to agree these cases will

almost surely end up in the Supreme Court where we will hopefully see a final decision on the matter. I understand that the Food and Drug Administration is just trying to protect us, but I do not believe this is the way to do it. With so many other tools at their disposal I believe they should be able to find another way. I am very curious to find out how this turns out. If the graphic image regulation is upheld I believe there will be a large backlash of unhappy consumers, both smokers and nonsmokers alike.

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