

# Case analysis



Case Analysis Project Introduction: There have been many cases on freedom of speech and public places. The first Amendment of the Bill of Rights provides that “ Congress shall make no law abridging the right of the people peaceably to assemble. Rights to free speech and assembly are not absolute under the relevant Jurisprudence. The Supreme Court has developed categories of public spaces where expressive activities may take place.

”(Gravey & Schaver, 1992, Chapter 2) As I read the case of Bruce Rucker I took notes about the problems in the case and possible solutions. Case Brief:

This case analysis is about rock star Bruce Rucker who is returning home to Maryland to announce that he was running for political office. His fans wanted to have a welcome home gathering for him and also for him to give a 15 minute speech at the Baltimore Washington International airport. Airport regulations forbids “ any gathering of more than 30 people anywhere in the airport unless travel related. ”(, 2012, para. 1) Case Background: In this case of Bruce Rucker there are a few issues if this case goes to court. The issue here is that Reg B is not clear as to what it actually means.

The first thing I seen was “ travel related” what exactly is that and who makes that decision? The purpose of the Reg. B is to avoid congestion and to promote the smooth operation of the airport, this could be debated by providing fewer restrictions, and even with travel related groups it would cause issues as well. A similar case would be Hague v CIO where consideration of an ordinance that would give a city official the discretion to decide if a organization seeking to hold a meeting in public spaces in the city would be allowed to do so.

Whenever the official concluded that the meeting posed a risk of disturbance, he could reject the request. (, 1998, p. 154) The next issue is violation of the first amendment issue. Government entities may make reasonable content-neutral restrictions on the time, place, and manner of speech or assemblage, even in the traditional public forum. This directly affects the rights of assembly, since a government entity may restrict the time and place where assembly may take place, as well as the manner in which the assembly occurs. The Supreme Court has held that a publicly owned theatre is a public forum.

Government may not make content based restrictions on speech or assembly in these theaters. However, government entities may make reasonable time, place and manner restrictions in publicly owned theaters. (Gravey & Schaver, 1992, Chapter 2). In the case of *Int'l Society for Knisna Consciousness v Lee* was a case of how the public forum should be defines. The issue was how to categorize the concourse area of airports, a place long used by members of the Krishna religion to distribute literature and solicit funds. It was decided that the airport concourse was not part of the traditional public forum. , 1998, Chapter 5) In this case it was the concourse it never mentioned other parts of the airport could not be a public forum for speaking and gathering. Analysis of Current Implications of Case: Some of the important implications currently from the above cases are that people have the freedom of speech under the first amendment. That public forum should be controlled but with certain regulations places such as airports should be used for things like this for Bruce Rucker. The current idea of the

freedom of assembly in it's entirely to freedom of speech is not a historical certainty.

The First Amendment itself names speech and assembly as discrete rights, and the two were considered in the Supreme Court's limited jurisprudence on the subject until recently. For instance, in its 1937 decision in *De Jonge v. Oregon* including the freedom of assembly into the 14th Amendment, the Court found that assembly as well as "speech" was an vital supporter of democracy: it was vital "to the end that government may be responsive to the will of the people and that changes, if desired, may be obtained by peaceful means.

The Court in the late 20th Century began to compare the two rights to the extent that they became vague in its jurisprudence, cases like *Perry Education Association v. Perry Local Educators Association* and *Clark*. On one hand, the Court's modern public forum analysis values ad hoc assembly only as a outlet for speech; on the other hand, the Court's "freedom of association" jurisprudence has made the rights of more permanent groupings dependent on the extent to which their association with each other has expressive content. Assembly on its own terms the right to gather together in public has become dormant. Yannitte, 2002, p. 28) Personal Opinion of Case: The 1st amendment gives the fans the freedom of speech, which included political freedom. The government cannot restrict the freedom of speech unless the speech is not protected. The government and the state government must abide by the first amendment through the 14th amendment can place reasonable time, place and manner restrictions on the speech. (Yannitte, 2002, p. 42) which I agree with at the airport. The airport

is a high risk place, but at the right area and time it should be allowed for Bruce Rucker to give his speech. Summary:

The analysis of case decisions have brought attention to the 1st amendment. Government may make restrictions as time, place and manner on speech related situations. Determining whether restrictions are reasonable will depend on if the restriction is to restrict speech related conduct in a public forum or a non public forum. If this case was to go to court this Reg B may not hold up as the 1st amendment as it stops people from expressing themselves. The public forum is designed to balance free speech rights with the government's ability to ensure that a place is being used remains safe.

Reg B states gatherings not to be held anywhere at the airport which is not a fair Reg. The general rule is that owners of private property can restrict speech in a manner that the owner deems appropriate. Some older cases have held that private property, such as privately owned shopping center could be treated as the equivalent of public property. However, modern cases have held otherwise, finding that private property was not subject to the same analysis regarding the 1st amendments rights as public property.