

The Frederick Douglass Foundation Case

Case Name: *Frederick Douglass Foundation v. District of Columbia*

Case Action: Oral argument held on September 28, 2022 at the U.S. Court of Appeals for the D.C. Circuit.

Significance: Whether government officials can censor messages they do not agree with.



Background: On Saturday, August 1st, the Frederick Douglass Foundation (FDF) and Students for Life of America (SFLA) held a sidewalk chalking event in front of a Washington, D.C. Planned Parenthood. SFLA had submitted a request to the City to paint the street with the slogan “Black Preborn Lives Matter,” but received no formal response. Both groups began chalking pro-life messages on the sidewalk, something that is done often in front of this D.C. Planned Parenthood. Almost immediately, police threatened students with arrest if they continued to chalk these messages on the sidewalk. Two individuals continued chalking messages—and were promptly arrested by Washington, D.C. police. Yet the City has allowed and even formally approved other political expression written on city streets. For instance, “Black Lives Matter” and “Defund the Police” were prominently painted on city streets with impunity—and the messages were left there for months. The government may not discriminate based on the viewpoint of speech it disagrees with. It should protect free speech, not take it away, and that’s why ADF filed suit on behalf of both the Frederick Douglass Foundation and Students for Life of America.

Key Points

- When a city opens a speech forum, it cannot pick and choose which expression can be written on public property. Other groups were not punished after painting and chalking messages on the streets and sidewalks.
- If there is disagreement over views on contentious issues, the answer is always more speech, not censorship, fines, or jail time.
- If the government can censor speech it doesn’t agree with, it can censor anyone’s speech.

Key Facts

- The First Amendment doesn’t only protect the expression of government-approved ideas. It protects ideas the government doesn’t agree with and challenges to the government.
- The Frederick Douglass Foundation and Students for Life should be able to exercise their constitutional freedom to peacefully share their views.
- Washington, D.C. is discriminating against certain viewpoints by allowing some voices to be heard while silencing – and punishing – others.

The Bottom Line: The right to free speech is for everyone—not just those in power. The government can’t silence speakers just because it doesn’t like what they say.