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EBA #1: Freedom Essay

“Should One’s Freedom to Speak Out be Taken Away?”

Everyone in the United States is given the option of using their freedom of speech, whether it is choosing to give one’s opinion to the public or choose to perform any constitutional act one desires to do. Nevertheless, there has many instances in which this liberty has been infringed upon, and the decision on what to conclude on these cases was left to the Supreme Court. Just recently, a veteran police-officer named Jeffrey Heffernan had been limited on **his** freedom of speech, as he was demoted from his position as detective after being seen holding up a campaign sign supporting the opponent of the current mayor, Jose “Joey” Torres. Heffernan later sued the City of Paterson, New Jersey for this, which brought them to the Supreme Court. There, the judges voted 6-2 in favor of Heffernan, ruling that his rights were infringed upon. Although the judgement of the City of Paterson was completely opposite of the Supreme Court’s decision, it can be proved that Heffernan should have been allowed should have been allowed to hold the sign without being punished for he did not put anyone in danger, his actions are protected by the law, and the decision to previous court cases must shape the decisions of the present.

To begin with, former police officer Jeffrey Heffernan should be allowed to hold the campaign sign without being penalized as he was not putting the security of anyone in danger. An

article published Britannica titled, “Permissible Restrictions on Expression,” mentions some of the major restrictions on using the freedom of speech. The article includes that one can be punished if they threaten others when using their “freedom of speech,” as the author explains, “Fighting words-defined as insults of the kind likely to provoke a physical fight-may also be punished, though general commentary on political, religious, or social matters may not be punished, even if some people are so upset by it that they want to attack the speaker. Personalized threats of illegal conduct, such as threats, may also be punished”(5). The main point this section of the article explains is that if someone causes harm or threats to others, then the freedom of speech no longer applies to that situation. Essentially, Heffernan had not risked the safety of others and putting them in danger, according to an article published by PBS. Sam Hananel reports on his article, describing the situation between Heffernan and the police department, that, “The case began in 2006 after another police officer saw Heffernan holding a campaign sign for Lawrence Spagnola, a former Paterson police chief seeking to oust incumbent mayor Jose Torres. A day after Heffernan was seen carrying the yard sign for Spagnola, his supervisors demoted him from detective to patrol officer.” This shows he was doing nothing but holding the campaign sign and was not harming others while doing his actions. Meaning that Jeffrey Heffernan’s actions should not have been infringed upon. Yet, the fact that Heffernan did not harm anyone is not the only reason that he had the right to be holding Spagnola’s sign without being demoted.

Besides not hurting anyone, Jeffrey Heffernan had the right to be holding the campaign sign since laws such as the First Amendment protect him from any form of punishment for his actions. Though the Bill of Rights does not specifically mention that no one should be punished for holding up the campaign sign of opponents of an incumbent, it does state, “Congress shall make no

law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” This complete quote taken from the First Amendment signifies that individuals can express themselves without government interference, except when one’s actions cause disruption in peace and cause violence, which was previously discussed. Heffernan did not violate any of these restrictions and so is protected by the First Amendment. With regards to this, judges from the Supreme Court argued a similar opinion based on this law. An article published by the NJ: News website and written by Jonathan D. Salant titled, “U.S. Supreme Court Sides With Ex-N.J. Cop,” explains the situation that had occurred. The article reveals, “When an employer demotes an employee out of a desire to prevent from engaging in political activity that the First Amendment protects, the employee is entitled to challenge that unlawful action under the First Amendment’ even if ‘the employer makes a factual mistake about the employee’s behavior,’ Justice Stephen Breyer wrote.” In other words, Justice Breyer had written that an employee’s rights could be argued that they were infringed upon when an employer demoted an employee based on political activity, since this is a First Amendment issue. For this reason, Jeffrey Heffernan should not have been demoted from his position as detective after holding the campaign sign as his rights are protected by the law.

Conclusively, the trends and past decisions of previous court cases must shape the decisions of the present, which is another reason why Heffernan should not have been demoted. To put it differently, decisions of past court cases must be the decisions towards court cases in the present, that are similar to those in the past. For instance, a case in 1976 known as *Elrod v.s. Burns* had a similar situation as to *Heffernan v.s. The City of Paterson*. To summarize, it is a case

in which Democrat Richard Elrod was elected Cook County sheriff and promptly fired several Republican employees, such as John Burns. Those fired filed a lawsuit against him under the First Amendment, saying they were dismissed since they were Republicans. Author Sergey Tokarev explains in an article published by U.S. Civil Liberties, “Those fired brought suit under the First Amendment, alleging they were discharged, since they were not Democrats. The Supreme Court agreed that firing an employee based on political belief or association amounted of coercion of the individual’s freedom of association and could deter others who would like to apply for city jobs from the free exercise of speech and association.” Meaning that people should not be punished based on political association, like Heffernan, who’s political association was supporting Lawrence Spagnola, which was on the contrast from the political alliance of the police officers in the City of Paterson. The similarity between this case and Heffernan’s case can be seen through the perspective of Sam Hananel, author of an article published by PBS, as he writes, “Another police officer saw Heffernan holding a campaign sign for Lawrence Spagnola, a former Paterson police chief seeking to oust incumbent mayor Jose Torres. The city’s police chief and other police officials were backing Torres.” Showing that Jeff Heffernan had been demoted due to differences in political views, just as John Burns had been fired from his position in the City Council. In John Burns’ trial, the Supreme Court had justified that it was wrong for Richard Elrod to fire the Republicans and so it should be concluded that since the situation in Elrod v.s. Burns had finalized that conclusion, then so the decision towards Heffernan v.s. City of Paterson should be the same.

Ultimately, Heffernan’s actions were based on his political association and ethical ideas, and so he should not have been penalized for this as he was not harming anyone else, his actions

are protected by the First Amendment and other laws, and since the trends and decisions of previous court cases must shape the decision of this court case. It is very significant the Jeffrey Heffernan had declared his rights to be abused as then everyone else can take a stand and use their voice to argue the same reason. Without being able to do so, our nation would be a tyranny like North Korea, and so it is important to value and use our given rights to fight for one's beliefs.