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# Opinion: A win for free speech in CT

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The state Superior Courthouse in Hartford.

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The Connecticut Supreme Court just issued an important decision protecting an individual’s right to free speech, even if that speech is offensive to an individual or group.

The court’s decision, in *Cerame v. Lamont*, involved Connecticut’s so-called “racial ridicule” statute. That law, General Statutes § 53-37, prohibits the ridicule or holding up to contempt, by one’s advertisement, of any person or class of persons on account of creed, religion, color, denomination, nationality or race. The legislature enacted it in 1917 with the intent to prohibit the discriminatory practice of posting signs outside business establishments or other places of public accommodation indicating that members of certain racial, ethnic, or religious groups were not allowed — for example, a business with a sign that says “Whites only.”

Despite this history and the clear language limiting the statute to “advertisements,” police and prosecutors in Connecticut have treated the law as

a ban on offensive speech generally. There are numerous other examples of people being arrested and charged under this statute for speech that had nothing to do with a commercial advertisement. In fact, despite the legislature's noble intent to *protect* racial, ethnic and religious minorities, the ridicule law has often been used as a tool to retaliate *against* members of those groups. Professor Eugene Volokh and the Foundation for Individual Rights and Expression uncovered many examples of arrests and criminal charges under this statute that were based on speech from Black or Hispanic persons directed at white police officers.

Like a river overflowing its banks, this unchecked use of the racial ridicule law cascaded far beyond constitutional boundaries. Attorney Mario Cerame identified this problem and filed a federal action seeking to declare that law unconstitutional under the First Amendment of the U.S. Constitution. Because no appellate authority in Connecticut had ever interpreted the statute, the federal district court sent the case to the Connecticut Supreme Court to decide whether the law applied to noncommercial speech.

On April 5, our state Supreme Court reined in the law in a decision that will protect free speech rights for people in Connecticut. The unanimous decision held that the law "does not criminalize all speech that ridicules persons or holds them up to contempt on the basis of race and the other listed classifications." Instead, it applies only to "commercial speech," such as advertisements, signs and other displays offering services or goods for sale. In other words, it does not apply to the personal, noncommercial speech that police and prosecutors have tried to criminalize for years.

History teaches that restrictions on speech are often used to protect the powerful and to punish members of racial, ethnic and religious minority groups. That is precisely what was happening in Connecticut. Though Cerame's lawsuit has not invalidated the statute in its entirety, the case is still a win for free speech because it will end the government's use of this law to punish noncommercial speech protected by the First Amendment. Free speech is the bedrock on which American liberty rests, and a win for free speech is a win for everyone.

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