

Talking Points / **McShane Opinion Quotes**

Federal court judge rules “send bachelors and come heavily armed” is protected speech under the First Amendment.

The Court held “that Defendants’ implementation of the 12-hour rule was a retaliatory act against Plaintiff, in violation of his First Amendment rights to free speech and association.”

“...the 12-hour notice rule served no legitimate purpose other than to retaliate against [Senator Boquist] after he engaged in protected speech”

“The 12-hour rule was a thinly veiled publicity stunt that did nothing to increase public safety in the State Capitol.”

The 12-hour notice rule **violated Senator Boquist’s First Amendment right to voice political opposition.**

“...the rule, on its face, is a ‘form of punishment’”

“The 12-hour rule was a thinly veiled publicity stunt that did nothing to increase public safety in the State Capitol.”

“...it is certainly beyond debate that hyperbolic political rhetoric is protected speech and that subsequent retaliatory action taken against a speaker engaging in such speech is prohibited by the First Amendment.”

The 12-hour notice rule also **violated Senator Boquist’s First Amendment right to freely associate with constituents.**

“Plaintiff has shown that the 12-hour rule infringed upon his right to freely associate (for purposes of speech) with his constituents at the Capitol at any time of day. Moreover, the rule did not further a compelling government interest; the evidence indicates that it was purely political, and most certainly related to the suppression of Plaintiff’s speech. The Court finds no genuine issue of material fact that the 12-hour rule infringes upon Plaintiff’s right to freely assemble.”

Defendant Senators Prozanski, Courtney, and Manning argued that Boquist’s military training gives him the ability and tendency [inclination] to harm others. Judge McShane rebuked their blatantly inappropriate bias against veterans.

“Defendants offer no evidence whatsoever that Plaintiff has a history of violence. [] The Court will not entertain Defendants’ prejudiced contention that Plaintiff’s veteran status makes him more likely to carry out a violent attack. It is insulting to veterans. If members were truly worried of a shooting, statistically they should bar teenagers from the Senate, not veterans.”

It is well-settled by the US Supreme Court that our nation’s interest in uninhibited, robust, and wide-open debate on public issues may include vehement, caustic, and sometimes unpleasantly sharp attacks on public officials.

“While ‘the language of the political arena . . . is often vituperative, abusive, and inexact,’ political hyperbole should be tolerated given our national commitment to uninhibited debate on public issues. *Watts*, 394 U.S. at 708.”

“Given the indifferent reaction of the majority of listeners, the wider political context, and the hypothetical nature of Plaintiff’s comments, these statements do not constitute a true threat. While ‘the language of the political arena . . . is often vituperative, abusive, and inexact,’ political hyperbole should be tolerated given our national commitment to uninhibited debate on public issues. *Watts*, 394 U.S. at 708.”

Elected officials [the state] may not punish political speech simply because some find it disagreeable, scary, or offensive.

“the negative reactions of a small number of partisan listeners pales in light of the general consensus that Plaintiff’s statements were political hyperbole”

Legislators cannot use a workplace harassment rule to circumvent elected officials’ First Amendment rights.

“the Conduct Committee does not even remotely resemble a neutral and independent body performing an adjudicatory function”

The 12-hour-notice rule unconstitutionally deprived Senator Boquist of the privileges and authority given to him by we the people [the voters].

“... the 12-hour rule materially affected Plaintiff’s right to free, unfettered access to meet with constituents on short notice at the Capitol building; a right guaranteed by his status an elected official.”