Privacy and Civil Liberties Case Law Examples

Many legal protections come directly from the U.S. Constitution and its amendments, laws passed by Congress, or laws signed by the President. However, case law has also outlined some privacy and civil liberties protections. Notable cases are summarized below.

O'Connor v. Ortega, 480 U.S. 709 (1987)

A United States Supreme Court decision on the Fourth Amendment rights of government employees with regard to administrative searches in the workplace, during investigations by supervisors for violations of employee policy rather than by law enforcement for criminal offenses.

It was brought by Magno Ortega, a doctor at a California state hospital after his supervisors found allegedly inculpatory evidence in his office while he was on administrative leave pending an investigation of alleged misconduct. Some of what they uncovered was later used to impeach a witness who testified on his behalf at the hearing where he unsuccessfully appealed his dismissal.

All nine justices agreed that public employees had Fourth Amendment protections during administrative searches in the workplace, and that routine work-related intrusions as discussed at oral argument did not constitute a violation. They differed as to whether Ortega's rights had been breached by the search. The five-justice majority believed it could not determine the purpose of the intrusion into Ortega's office and so remanded the case to the district court to do so.

Garrity v. New Jersey 385 U.S. 493 (1967)

In 1961, allegations of "ticket fixing" came to light in the townships of Bellemawr and Barrington, New Jersey. Six officers, including Edward Garrity, were suspected and subsequently interviewed in connection. Although they were told that, their statements could be used to bring about criminal charges and that they were not required to answer any questions, the officers were threatened with removal from office if they did not cooperate. The officers answered the incriminating questions, which eventually led to criminal charges. The officers appealed their convictions, but they were upheld by the state supreme court.

The Supreme Court of the United States held that law enforcement officers and other public employees have the right to be free from compulsory self-incrimination. It gave birth to the Garrity warning, which is administered by investigators to suspects in internal and administrative investigations in a similar manner as the Miranda warning is administered to suspects in criminal investigations.

Reynolds v. U.S., 98 U.S. 145 (1878)

George Reynolds was a member of The Church of Jesus Christ of Latter-day Saints (LDS Church), charged with bigamy under the Morrill Anti-Bigamy Act after marrying Amelia Jane Schofield while still married to Mary Ann Tuddenham in Utah Territory. He was secretary to Brigham Young and presented himself as a test of the federal government's attempt to outlaw polygamy. An earlier conviction was overturned on technical grounds.

Before the Supreme Court, Reynolds argued that his conviction for bigamy should be overturned on four issues: that it was his religious duty to marry multiple times and the First Amendment protected his practice of his religion; that his grand jury had not been legally constituted; that challenges of certain jurors were improperly overruled; that testimony was not admissible as it was under another indictment.

Supreme Court of the United States affirmed Reynolds's conviction unanimously. They held that religious duty was not a defense to a criminal indictment. Reynolds was the first Supreme Court opinion to address the First Amendment's protection of religious liberties, impartial juries and the Confrontation Clauses of the Sixth Amendment.

Pickering v. Board of Education, 391 U.S. 563 (1968)

In February 1961, the Township Board of Education asked the voters of Township High School District 205 to approve a bond issue to raise $4,875,000 to erect two new schools, which was defeated. In December 1961, the Board again submitted a bond proposal to the voters for $5,500,000 to build two new schools, which passed and the two schools were built with the money. In May 1964, the Board proposed and submitted to the voters an increase in the tax rate for educational purposes, which was defeated. On September 19, 1964, a second proposal to increase the tax rate was submitted by the Board, and was similarly defeated.

After the proposal failed, Marvin L. Pickering, appellant and a teacher in the District, wrote a letter to the editor in response to the material from the Teachers' Organization and the superintendent. The letter was an attack on the Board's handling of the 1961 bond proposals and its subsequent allocation of financial resources between the schools' educational and athletic programs. It also charged the superintendent of schools with trying to prevent teachers from speaking out against the proposed bond issue. Pickering was dismissed by the Board for writing and publishing the letter.

The Supreme Court of the United States held that in the absence of proof of the teacher knowingly or recklessly making false statements the teacher had a right to speak on issues of public importance without being dismissed from his or her position.

Thygeson v. U.S. Bancorp, 2004 WL 2066746 (D. Or. 2004)

Thygeson was an employee of U.S. Bancorp and USBEF for over 18 years. He was terminated after the discovery of inappropriate materials he was allegedly accessing on his work computer. He was not provided with severance benefits.

The Court held that US Bancorp's access of Thygeson's "personal" folder on the company's computer did not constitute an invasion of privacy. The court found that Thygeson could not have had a reasonable expectation of privacy in the e-mails that he sent and received using his U.S. Bancorp office e-mail, even though he saved them in a folder labeled personal, because they were not password protected.

The court additionally found that Thygeson did not have a reasonable expectation of privacy in the internet websites that he accessed from his computer, even though "in contrast to an e-mail system provided by an employer, most employees have a higher expectation of privacy when accessing personal internet e-mail accounts, such as Netscape or Hotmail accounts, even when doing so while at work."

Garrity v. John Hancock Mutual Life Insurance Co. Civ. Act. No. 00-12143-RWZ, 2002 U.S.Dist. Lexis 8343 (D. Mass., May 7, 2002)

Plaintiffs, Nancy Garrity and Joanne Clark were employees of John Hancock Mutual Life Insurance Company for twelve and two years, respectively, until they were terminated for violating the corporate email policy. One of their coworkers complained about receiving sexually explicit email from them. Hancock promptly commenced an investigation of their email folders and those with whom they regularly emailed and determined that they had violated its email policy. The policy prohibited defamatory, abusive, obscene, profane, sexually oriented, threatening or racially offensive messages as an inappropriate use of email and a violation of company policy that could subject an employee to disciplinary action, up to and including termination. All information stored, transmitted, received, or contained in the company's e-mail systems was company property; and the company management reserved the right to access all email files.

Following their terminations, Garrity and Clark filed action in the Massachusetts Superior Court, bringing claims for invasion of privacy, unlawful interception of wire communications, wrongful discharge in violation of public policy, wrongful discharge to deprive plaintiffs of benefits, and defamation.

The Court held that there was no expectation of privacy where employees admitted that they assumed third parties might read the emails and that they knew their employer had the capability of reviewing email on the company system, even though employer also instructed them on how to create passwords and set up personal folders. The employer's interest in preventing sexual harassment is greater than employee's privacy interest.

Stengart v. Loving Care Agency, Inc. 990 A.2d 650 (2010)

Marina Stengart was a former employee of Loving Care Agency, Inc. who provided care services for children and adults. In December 2007, Marina Stengart resigned from her position at Loving Care due to discrimination issues, which ultimately lead to an action against Loving Care Agency, Inc. Just prior to her resignation, Stengart wrote several e-mails to her lawyer from her personal, password-protected e-mail account using a company-owned laptop. In preparation for the case, Loving Care Agency, Inc. hired a computer forensics expert to create a forensics disk image of the hard drive in the computer used by Stengart while employed with the company.

During discovery, the plaintiff was made aware of Loving Care's possession of the e-mails from the company-owned laptop that Stengart used. Upon learning of the acquisition of the e-mails by Loving Care, Stengart's attorney filed a motion in Bergen County court for all e-mails to be returned and that copies be destroyed. The trial judge denied the motion on the basis that such e-mails were not protected by client-attorney privilege because the company's policy indicated that the e-mails were a part of the company's property.

During the appeal, the New Jersey Supreme Court's set out to determine whether or not Loving Care's computer use policy was sufficient notice that her privacy should be expected while using the company-owned laptop. After hearing the facts of the case and reviewing the previous holdings from the lower courts, the Supreme Court affirmed the decision previously made by the appellate court that Marina Stengart had reasonable expectations that her attorney–client communications would remain private.

Garcetti v. Ceballos, 547 U.S. 410 (2006)

In this case, the U. S. Supreme Court ruled that statements public employees make as part of their official duties are not protected under the First Amendment; thus, it does not protect employees who make them from disciplinary actions. At issue was whether a prosecutor could be insulated from alleged retaliation because the speech that triggered it, a recommendation that a criminal case be dismissed, was protected speech under the First Amendment. Justice Kennedy delivered the majority opinion, in which Justices Roberts, Scalia, Thomas, and Alito joined, reversing the judgment of the U.S. Court of Appeals for the Ninth Circuit.

Justice Souter filed a dissenting opinion, in which Justice Stevens and Ginsburg joined. Justices Stevens and Breyer filed separate dissenting opinions. They argued that a balancing test should be applied in cases involving employment-related speech to weigh the government's interest in operating efficiently against individual interests. Justices Souter and Stevens would apply this analysis in all such cases. Breyer would apply it only in certain cases.

Katz v. United States, 389 U.S. 347, 361 (1967)

Charles Katz used a public pay phone booth to transmit illegal gambling wagers from Los Angeles to Miami and Boston. Unbeknownst to Katz, the FBI was recording his conversations via an electronic eavesdropping device attached to the exterior of the phone booth. Katz was convicted based on these recordings. He challenged his conviction, arguing that the recordings were obtained in violation of his Fourth Amendment rights. The Court of Appeals sided with the FBI because there was no physical intrusion into the phone booth itself.

The United States Supreme Court's ruling refined previous interpretations of the unreasonable search and seizure clause of the Fourth Amendment to count immaterial intrusion with technology as a search, overruling Olmstead v. United States and Goldman v. United States. Katz also extended Fourth Amendment protection to all areas where a person has a "reasonable expectation of privacy." Katz v. United States can often be attributed to the formation and use of the Katz Test in other court cases. The Katz Test has two parts: the first is that the plaintiff displayed an expectation of privacy, and the second is that this expectation is "reasonable."