



Police Law Bulletin



City Attorneys' Office

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UNITED STATES SUPREME COURT



N.C.G.S. §14–202.5, Making It a Felony for a Registered Sex Offender to Gain Access to a Number of Websites, Including Common Social Media Websites Like Facebook and Twitter, Violates the First Amendment

Packingham v. North Carolina, No. 15–1194 (June 19, 2017).

In 2002, Lester Packingham - then a 21-year-old college student - had sex with a 13-year-old girl. He pleaded guilty to taking indecent liberties with a child. Because this crime qualifies as “an offense against a minor,” he was required to register as a sex offender. As a registered sex offender, he was barred under N.C.G.S. §14–202.5 from accessing commercial social networking sites where minor children are permitted to become members or to create or maintain personal Web pages.

In 2010, a state court dismissed a traffic ticket against Packingham. In response, he logged on to Facebook and posted the following statement on his personal profile: “Man God is Good! How about I got so much favor they dismissed the ticket before court even started? No fine, no court cost, no nothing spent.Praise be to GOD, WOW! Thanks JESUS!”

At the time, a member of the Durham Police Department was investigating registered sex offenders who were thought to be violating N.C.G.S. §14–202.5. The officer noticed that a “J.R. Gerrard” had posted the statement. Subsequent evidence confirmed that petitioner, Lester Packingham, was J.R. Gerrard.

Gerrard was indicted for violating G.S. §14–202.5. The trial court denied his motion to dismiss. Petitioner was convicted and given a suspended sentence. Petitioner appealed to the North Carolina Court of Appeals who struck down the statute on First Amendment grounds. The State appealed to the North Carolina Supreme Court who reversed, concluding that the law was constitutional in all respects. Petitioner appealed to the United States Supreme Court who granted certiorari.

The First Amendment requires North Carolina’s statute to pass intermediate scrutiny. In order to survive intermediate scrutiny, the law must be narrowly tailored to serve a significant governmental