In The Supreme Court of the United States

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RACHEL Y. LAWLER, et al.,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.

———♦———

On Petition For Writ Of Certiorari
To The District Of Columbia Court of Appeals

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PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Whether §40 U.S.C. 6135 is inconsistent with the principles of the First Amendment and void on its face as it prohibits all expressive conduct unrelated to any business of the Supreme Court throughout the Supreme Court building and grounds; or in the alternative, whether the First Amendment's protection of free speech, peaceable assembly, and petitioning the government for redress, and the Due Process requirement that a criminal statute give fair notice, demand that the Supreme Court Police inform persons unfurling a banner on the Supreme Court plaza in alleged violation of § 40 U.S.C. 6135 that the sidewalk just a few yards away abutting the Supreme Court's grounds is an available, alternative means and lawful location to exercise their First Amendment rights.

Parties to the Proceedings

The Petitioners are Rachel Y. Lawler, Brian A. Buckley, Annelie Z. Shockley, John M. Payden-Travers, Thomas W. Muther, Jr., and Ronald W. Kaz, (hereafter cited as "Lawler"), the Defendants and Defendants-Appellants in the Courts below. The Respondent is the United States of America.

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Rachel Y. Lawler, Brian A. Buckley, Annelie Z. Shockley, John M. Payden-Travers, Thomas W. Muther, Jr., and Ronald W. Kaz respectfully petition for a writ of certiorari to review the judgment of the District of Columbia Court of Appeals.

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OPINIONS BELOW

The opinion of the District of Columbia Court of Appeals is reported at 10 A.2d 122 (D.C. 2010) and is reprinted in the Appendix A to the Petition ("Pet. App.") at p. 25.

JURISDICTION

The Court of Appeals entered its judgment on December 16, 2010. This Court has jurisdiction to review the decision of the Court of Appeals under 28 U.S.C. § 1257(a).

CONSTITUTIONAL PROVISIONS AND STATUTES

Following are the Constitutional provisions and statutes involved in the case:

The First Amendment to the U.S. Constitution provides in pertinent part:

> Congress shall make no law… abridging the freedom of speech… or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

40 U.S.C. § 13k states in full:

> It shall be unlawful to parade, stand, or move in processions or assemblages in the Supreme Court Building or grounds, or to display therein any flag, banner, or device designed or adapted to bring into public notice a party, organization, or movement.

40 U.S.C. § 6135 states in full:

> It is unlawful to parade, stand, or move in processions or assemblages in the Supreme Court Building or grounds, or to display in the Building and grounds a flag, banner, or device designed or adapted to bring into public notice a party, organization, or movement.

STATEMENT OF THE CASE

Rachel Y. Lawler, Brian A. Buckley, Annelie Z. Shockley, John M. Payden-Travers, Thomas W. Muther, Jr., and Ronald W. Kaz were charged by information on January 18, 2007 with one count of violating 40 U.S.C. § 6135, which prohibits parades, assemblages, and displays of flags and banners in the Supreme Court building and on the Supreme Court grounds.

On the morning of January 17, 2007, the six appellants[1] were standing with a group of people in front of the Supreme Court, waiting in line to be admitted to the building to hear oral arguments. At 10:46 a.m., Officer Timothy Quigley of the Supreme Court Police saw appellants step out of line on the plaza and unfurl a large banner that read "STOP EXECUTIONS." Each appellant stood behind the banner and joined in a chant, saying, "What do we want? Abolition. When do we want it? Now."

Between 10:48 and 10:50 a.m., the Chief of the Supreme Court Police issued several verbal warnings to appellants that they were "in violation of Title 40" and that they would be arrested if they did not cease their actions, but appellants "continued to chant and hold the banners." Officer Quigley and the Chief of Police then informed appellants that they were under arrest "for violation of Title

[1] Two additional co-defendants, Scott Langley and Elizabeth Brockman, were similarly charged, tried, and convicted, but they did not appeal from their convictions. A third co-defendant, Franklin Dew, pleaded guilty before trial.)

40 of the U.S. Code" which prohibits parades, assemblages, and displays of flags and banners in the Supreme Court building and on the Supreme Court grounds. No Supreme Court police officer ever told the appellants that it was lawful to demonstrate on the Supreme Court sidewalk a few yards away.

After a one-day non-jury trial on June 28, 2010 Judge Rafael Diaz of the Superior Court of the District of Columbia found all six appellants guilty as charged and sentenced them to time served. The District of Columbia Court of Appeals issued an opinion December 16, 2010 affirming the convictions. *Lawler, et al. v. United States*, 10 A.2d 122 (D.C. 2010).

On appeal Petitioners' raised the same issues as presented before the trial judge – that the broad language of 40 U.S.C. § 6135 plainly clashes with the First Amendment but if it was held to be constitutional, the Supreme Court Police nevertheless had an affirmative obligation to inform individuals of areas nearby on Supreme Court property where protest was lawful, before arresting individuals.

REASONS FOR GRANTING THE PETITION

A. The Statute is Unconstitutionally Overbroad

In *U.S. v. Grace*, 461 U.S. 171, 103 S.Ct. 1702, 75 L.Ed.2d 736 (1983), this Court made clear that 40 U.S.C. 6135's (previously cited as 13k)[2] broad prohibition against expressive activity did not apply to conduct occurring on the public sidewalks abutting the Supreme Court's grounds. *Grace* limited itself to addressing public expression on the public sidewalk and left for another day the issue as to whether section 6135 was constitutionally invalid in its entirety, as the District Court had earlier held. *Grace v. Burger*, 665 F.2d 1193 (D.C. Cir. 1981).

Petitioners now ask this Court to resolve that question so as to resolve a conflict between a federal court's ruling that section 6135 is unconstitutional and subsequent decisions by the District of Columbia Court of Appeals insisting that a complete First Amendment ban on the Supreme Court Plaza is lawful.

40 U.S.C. § 6135 states:

> "It is unlawful to parade, stand, or move in processions or assemblages in the Supreme Court Building or grounds, or to display in the Building and grounds a flag, banner, or device designed or adapted to bring into public notice a party, organization, or movement."

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[2] 40 U.S.C. § 6135, in its present form, was enacted in 2002 as part of a general revision of Title 40 of the United States Code. *See* Pub. L. No. 107-217, § 1, 116 Stat. 1183 (2002). Section 6135 provides in its entirety:

> It is unlawful to parade, stand, or move in processions or assemblages in the Supreme Court Building or grounds, or to display in the Building and grounds a flag, banner, or device designed or adapted to bring into public notice a party, organization, or movement.

The predecessor statute, 40 U.S.C. § 13k (2000), which section 6135 replaced, stated:

> It shall be unlawful to parade, stand, or move in processions or assemblages in the Supreme Court Building or grounds, or to display therein any flag, banner, or device designed or adapted to bring into public notice a party, organization, or movement.

In *Grace v. Burger*, the District Court stated that section 6135 was "repugnant to the First Amendment of the Constitution," and that no "significant governmental interests" existed "to justify the absolute prohibition of all expressive conduct maintained in section [6135]," and held the statue was "unconstitutional and void." *Grace*, 665 F.2d at 1194. Despite the District Court's clear language, the D.C. Court of Appeals persists in holding that the Supreme Court Plaza is a non-public forum for First Amendment purposes. *See Lawler v. United States*, 10 A.2d 122 (D.C. 2010), quoting *Potts v. United States,* 919 A.2d 1127, 1129 (D.C. 2007); *United States v. Wall*, 521 A.2d. 1140, 1144 (D.C. 1987). The D.C. Court of Appeals wrongly claimed that *United States v. Grace* banned all public expression on the Supreme Court Plaza. *Lawler,* 10 A.2d at 125. The protesters in *Grace* confined their demonstrations to the pubic sidewalk abutting the Plaza and the Court ruled only that section 6135 could not prohibit expressive speech on the sidewalk. *Id*. at 175. Although Justice Marshall explicitly ruled section 6135 unconstitutional, *Grace*, 461 U.S. at 184 (J. Marshall concur and dissent), the majority of the Court neither affirmed nor reversed the District Court's holding that section 6135 *in toto* was unconstitutional and never validated the statute's authority to ban all public speech on the Plaza. *Id*. at 175 fn.5.

Section 6135 of 40 U.S.C. creates an overbroad and unconstitutional "First Amendment Free Zone" of the type stricken down by the Supreme Court in the

past. *See Bd. of Airport Comm'rs of City of Los Angeles v. Jews for Jesus, Inc.*, 482 U.S. 569, 574 (1987). There, the Board of Airport Commissioners adopted a resolution declaring that the airport terminal area "is not open for First Amendment activities by any individual and/or entity." *Id.* at 570-71. The Court affirmed the lower court's determination that the resolution was unconstitutionally overbroad because it "reaches the universe of expressive activity … by prohibiting *all* protected expression…" *Id*. at 574. (emphasis in original). The Court observed that the resolution not only reached individuals passing out religious leaflets, "it prohibits even talking and reading, or the wearing of campaign buttons or symbolic clothing. Under such a sweeping ban, virtually every individual who enters LAX may be found to violate the resolution by engaging in some 'First Amendment activit[y].'" *Id*. at 574-75.

Section 6135 is remarkably similar to the LAX resolution as it too prohibits virtually any activity on the Supreme Court Plaza. The statute makes unlawful conduct merely "to parade, stand, or move in processions or assemblages" on the Plaza as well as the expressive conduct of displaying on Supreme Court grounds "a flag, banner, or device designed or adapted to bring into public notice a party, organization, or movement." The statute plainly prohibits conduct regardless of whether it carries a message or not. The Petitioners peacefully unfurled a banner opposing the death penalty on the public Supreme Court plaza next to a line of people—standing in a procession or assemblage—waiting to enter the Court. Yet the Supreme Court Police only

arrested the Petitioners, failing to enforce the statute against all of the other "violators" on the grounds that day. Thus, the statute encourages arbitrary and discriminatory enforcement of those who exercise their First Amendment rights, and should be held void. *See Colautti v. Franklin*, 439 U.S. 379, 390-91 (1979), citing *Papachristou v. City of Jacksonville*, 405 U.S. 156, 167, 92 S.Ct. 839, 31 L.Ed.2d 110 (1972) (vagrancy ordinance offering no standards governing the exercise of the discretion impermissibly permitted and encouraged an arbitrary and discriminatory enforcement of the law so those convicted may be punished for no more than vindicating affronts to police authority). Furthermore, the ban on speech on the Plaza is not absolute. Select speakers are permitted access to express their First Amendment rights by way of holding press conferences that are called "press availabilities" by the Supreme Court's Public Information office. *Bonowitz v. United States*, 741 A.2d 18, 22 (D.C. 1999). This discrepancy illustrates the arbitrary manner in which Court administrators enforce the statute, by permitting speech they deem acceptable to be voiced on the Plaza but excluding other types of speech they view with disfavor.

The statute proscribes core First Amendment rights at a public place where people gather, congregate and where a person of common intelligence would almost certainly assume those rights exist. *Grayned v. City of Rockford*, 408 U.S. 104, 92 S.Ct. 2294, 33 L.Ed.2d 222 (1972) (access to the streets, sidewalks, parks, and other similar public places for the purpose of exercising First Amendment

rights cannot constitutionally be denied broadly). The late Justice Thurgood Marshall endorsed this view in *Grace* when he wrote,

> "Visitors to this Court do not lose their First Amendment rights at the edge of the sidewalks any more than "students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." Tinker v. Des Moines Independent Community School District, 393 U.S. 503, 506 (1969). Since the continuing existence of the statute will inevitably have a chilling effect on freedom of expression, there is no virtue in deciding its constitutionality on a piecemeal basis. I see no reason why the premises of this Court should be exempt from this basic principle. It would be ironic indeed if an exception to the Constitution were to be recognized for the very institution that has the chief responsibility for protecting constitutional rights. I would apply to the premises of this Court the same principle that this Court has applied to other public places. Viewed in this light, 40 U.S.C. [6135] is plainly unconstitutional on its face. The statute is not a reasonable regulation of time, place, and manner, for it applies at all times, covers the entire premises, and, as interpreted by the Court, proscribes even the handing out of a leaflet and, presumably, the wearing of a campaign button as well. First Amendment freedoms "are delicate and vulnerable," and "[t]he threat of sanctions may deter their exercise almost as potently as the actual application of sanctions." I would not leave visitors to this Court subject to the continuing threat of imprisonment if they dare to exercise their First Amendment rights once inside the sidewalks."

Grace, 461 U.S. at 185 (Marshall, J., concurring and dissenting in part). Petitioner's conduct is precisely the type of conduct that Justice Marshall envisioned must be protected.

The First Amendment explicitly forbids Congress from abridging a citizen's right to free speech, peaceable assembly, and to petition the government. U.S. Const., Am. I. The Petitioners were peaceably demonstrating on the Supreme

Court Plaza, petitioning a branch of government to "Stop the Executions." Because the Petitioners were attempting to exercise their "most precious" right to petition a branch of government for redress, they were not required under the primacy of the First Amendment to comply with the officers warning to desist from violating the facially unconstitutional statute. *BE & K Constr. Co. v. NLRB*, 536 U.S. 516, 524-25 (2002) (internal quotations and citations omitted). The First Amendment reflects our "profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open." *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964). A citizen's right to speak on matters of public concern "'is more than self-expression; it is the essence of self-government.'" *Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc.*, 472 U.S. 749, 759 (1985) (citation omitted). "[S]peech on public issues occupies the highest rung of the hierarchy of First Amendment values." *Id.* (citation and internal quotation marks omitted).

This Court recently affirmed the First Amendment rights of an extremist religious sect to, in Justice Alito's words, launch a "vicious verbal assault" on family members' mourning at the funeral of their son who was killed in Iraq. *Snyder v. Phelps*, 562 U.S. ____ (2011), 1 (J. Alito, Dissent). The Court majority upheld their right to carry signs proclaiming "Thank God for Dead Soldiers" by explaining that the group "conducted its picketing peacefully on matters of public concern at a pubic place adjacent to a public street. Such space occupies a 'special position in terms of First Amendment protection.'" *Snyder*, 562 U.S. ____. quoting *United States v. Grace*, 461 U.S. 171, 180 (1983). The First

Amendment rights of the Petitioners, who merely unfurled a banner opposing the death penalty in a public area, deserve no less protection. Whether the Supreme Court Plaza will stand as a "First Amendment Free Zone" is an important question that deserves review by this Court, at a unique time in world history where the rights of peaceful protesters to challenge government actions from Egypt to Tunisia to Libya, to our own United States, is much debated.

It is well recognized that "time, place, and manner" restrictions may be imposed on public space. *Clark v. Community for Non-Violence,* 468 U.S. 288, 293 (1984). But as the District Court in *Grace v. Burger* pointed out, the statute

> … prohibits all expressive conduct in the Supreme Court building and on the Supreme Court grounds. The statutory prohibition applies whether or not the message conveyed concerning any matter pending before the Court; public expression is also banned no matter what effect is intended or produced by the message. The statute applies whether or not the Court is in session … we are not concerned with a narrow regulation that governs the time, place and manner of expression, or solely protects the efficient functioning of the physical structure. The statute, as construed, flatly prohibits all expressive conduct.

Grace, 665 F.2d at 1202

A governmental interest exists to preserve the dignity and decorum of the Supreme Court but that concern alone is insufficient to justify the blanket prohibition of all expression contained in section 6135. *Grace*, 665 F.2d at 1204. But the Court's concern with dignity and decorum is not unconditional; if Court administrators do not consider raucous and expressive press conferences on the

Plaza offensive to the Court's civility or decorum or sense of being removed from the public pressures of litigants, the same must be said for peaceful protestors on the Plaza. *Bonowitz*, 741 A2d. at 22.

A similar government interest exists to insure that the public does not conclude that a court's decision was the product of intimidation from rowdy demonstrations on the Supreme Court Plaza. But the broad language of section 6135 is not limited to expressions that may improperly influence the Court; it prohibits all conduct regardless of its content, and regardless of the likelihood that the Justices will see or hear the demonstration, let alone be influenced by it. Moreover, such a blanket ban on peaceful free speech in the plaza implies that the Court requires special protection from protestors because it is somehow uniquely vulnerable to public pressure. Propagating such a perception could invite protestors to take their message to the private homes of the Justices, or to the public places where the Justices may frequent in order to get their message to their intended audience.

An existing statute currently protects the Court, and other courts, from legitimate concerns of threats and intimidation to its functioning as a Court. Section 1507 of Title 18 of the U.S.C. reads:

> Whoever, with the intent of interfering with, obstructing, or impeding the administration of justice, or with the intent of influencing any judge, juror, witness, or court officer, in the discharge of his duty, pickets or parades in or near a building housing a court of the United States, or in or near a building or

> residence occupied or used by such judge, juror, witness, or court officer, or with such intent uses any sound-truck or similar device or resorts to any other demonstration in or near any such building or residence, shall be fined under this title or imprisoned not more than one year, or both. Nothing in this section shall interfere with or prevent the exercise by any court of the United States of its power to punish for contempt.

A legitimate requirement exists to insure the free egress and ingress to the Supreme Court building through the Plaza. Section 6135 fails to meet that goal, and egress and ingress was not an issue in the case at bar. It appears that the statute was enforced here solely to assure the Court's "dignity." *See Grace*, 665 F.2d at 1203 n.17. But these legislative goals are not so great that all First Amendment rights on the Plaza must "give way to other compelling needs of society." *Broadrick v. Oklahoma*, 413 U.S. 601, 612-615, 93 S.Ct. 2908, 37 L.Ed.2d 830 (1973).

Even if the Court determines that section 6135 contains some legitimate purpose, it cannot be denied that the statute's overbreadth is "real" and punishes a "substantial" amount of protected free speech. *Id*. at 615. In such a circumstance, this Court has instructed that "all enforcement of the statute" is invalid "'until and unless a limiting construction or partial invalidation so narrows it as to remove the seeming threat or deterrence to constitutionally protected expression.'" *Virginia v. Hicks*, 539 U.S. 113, 119-20, 123 S.Ct. 2191, 156 L.Ed. 148 (2003) (internal cites omitted), quoting *Broadrick*, 413 U.S. at 613. Whether section 6135's absolute ban on all protected speech in the Plaza except for individuals selected by the

Supreme Court's Information Office to hold press conferences on the Plaza is valid is an important Constitutional question deserving of this Court's attention.

B. The Supreme Court Police Have an Affirmative Obligation to Inform Demonstrators Where Protesting is Lawful just a few Yards away on the sidewalk

If this Court would not find 40 U.S.C. § 6135 to be unconstitutional on its face, the Petitioners' convictions nonetheless infringed their due process and First Amendment rights. The statute here proscribes core First Amendment rights at a public place where people gather, congregate and where a person of common intelligence would almost certainly assume those rights exist. "As a matter of due process, a criminal statute that fails to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by the statute, or is so indefinite that it encourages arbitrary and erratic arrests and convictions, is void for vagueness." *Colautti*, 439 U.S. at 390 (internal quotations and citations omitted). That is "especially true" where the statute prohibits "the exercise of constitutionally protected rights." *Id*. at 391.

Because the extraordinarily broad language of 40 U.S.C. § 6135 plainly clashes with the First Amendment, and because it is so rigidly enforced by the Supreme Court Police when it arrested the Petitioners and not nearby by-standers, Due Process required notice of an alternative be given to the Petitioners.

The simple publishing of 40 U.S.C. § 6135 in the law books, with no signage or postings at the Plaza, or no barricades or police lines, does not provide fair notice – the average person should assume the law is void and does not prohibit

non-violent First Amendment expressive activity at the Supreme Court Plaza. This is especially true because, assuming the Petitioners knew of and understood the statute, they would have also understood that everyone else in line who like them, freely left the public sidewalk and walked up a few steps and walked freely onto the public plaza without avoiding or evading any police, or crossing any barriers, gates or checkpoints, was violating the same law by standing or moving in a procession waiting to enter the Court. 40 U.S.C. § 6135, then, fails to provide fair notice to the average person that the conduct is validly forbidden, and invites arbitrary enforcement. *See Colautti*, 439 U.S. at 390-91; *Papachristou*, 405 U.S. at 167. For both reasons, the Petitioners convictions violated due process and infringed their First Amendment rights. *Id*. This court should vacate their convictions.

In affirming Petitioner's convictions under 40 U.S.C. § 6135, the District of Columbia Court of Appeals failed to substantively address the Petitioners' argument that the Supreme Court Police violated their First Amendment rights by arresting them for unfurling a banner on the Supreme Court Plaza without informing them that they could legally demonstrate on the sidewalk just a few yards away, in front of the Supreme Court. Essentially, the court of appeals held that because it had previously affirmed convictions of persons who had not received affirmative notification of nearby alternate means before arrest at the Supreme Court, and it does not require such notifications in other circumstances, it would uphold these convictions. In so doing, the court of appeals ignored the

compelling circumstances of the demonstrations—where the Petitioners were arrested in a public area, under a criminal statute prohibiting conduct protected by the plain language of the First Amendment—and the important question of whether Due Process requires special notification in such circumstances. That question deserves review in this Court.

Further, unless or until this Court holds 40 U.S.C. § 6135 unconstitutional on its face, this Court should require the Supreme Court Police to inform individuals in technical violation of the statute that they may lawfully exercise their First Amendment rights on the sidewalk in front of the Supreme Court in order to enforce it. This due process requirement flows from the law's absolute prohibition of First Amendment activity. Where a criminal law threatens a Constitutional right, the due process demand of fair notice is most important.

There are at least three reasons why Supreme Court Police should direct protestors on the Plaza to a nearby lawful location on the sidewalk. First, the burden would be minimal: they need only tell demonstrators to move a few yards away and demonstrate on the adjacent public sidewalk. Had the police done the decent thing and alerted Petitioners that they could exercise precious rights by merely moving a few yards away to the sidewalk abutting the Supreme Court's grounds, they would have then had fair notice that they could exercise their First Amendment rights in a meaningful way—that is, still directed at and visibly associated with the Supreme Court—and a subsequent arrest if they continued to demonstrate in the Plaza area would be arguably valid.

Second, this Court has previously created safeguards to protect Constitutional rights. *See, e.g., Iowa v. Tovar*, 541 U.S. 77 (2004) (describing what the 6th Amendment requires a trial court to tell defendant before it can accept waiver of counsel); *Boykin v. Ala.*, 395 U.S. 238 (1969) (requiring that the record reflect knowing and voluntary guilty plea on due process grounds); *Miranda v. Ariz.*, 384 U.S. 436 (1966) (requiring police to provide warnings to protect Fifth Amendment rights). Here, Due Process commands the Supreme Court Police to alert individuals that the sidewalk in front of the Supreme Court is an available alternate means for them to exercise their First Amendment rights, prior to initiating warnings and arrests.

Review of relevant cases reveal that the police routinely did tell protesters where they could go to lawfully protest. The problem is that such police advice was inconsistently given, resulting in situations, such as the one Petitioners' found themseves in, where some protestors receive significantly less notice than given to other protesters. In *Grace*, a Court police officer approached Grace and informed her that she would have to go across the street if she wished to display the sign**;** she left the Plaza and went to the sidewalk. 461 U.S. at 174. The police in *Potts v. United States*, 919 A.2d 1127 (D.C. 2007) repeatedly asked a group of people protesting the mistreatment of prisoners at the Abu Ghraib and the Guantanamo Bay prisons to return to the sidewalk before they arrested them; *Pearson v. U.S.*, 581 A.2d 347 (D.C. 1990), the police set up barricades in front of the Plaza, clearly demarking for anti-abortion demonstrators where lawful

demonstrations could take place; *United States v. Wall*, 521 A.2d 1140 (D.C. 1987), the police told anti-abortion protestors they would be arrested if they did not return to the sidewalk. In *Bonowitz* the Police read from a card with the language of the statute on it. In all these cases, common sense directed the Supreme Court Police to point out lawful areas where protests could occur; unfortunately for the First Amendment rights of Petitioners, such judgement and warnings are not uniform among the police.

Finally, the Supreme Court stands as a special and unique institution in American life. It stands as the symbolic and substantive guarantor of this country's right to free expression enshrined in the First Amendment to the Constitution, defending a breath of rights unique to the world. The conduct of the Supreme Court police officers empowered to protect the Court is far more consequential than the acts of any other U.S. law enforcement agency. Unlike any other court in the country, thousands of people venture to the Supreme Court to visit, to witness oral argument, or voice their opinion and demonstrate their beliefs. That they could be deterred from that right, or arrested for expressing that right, merely because the police failed to tell them that the sidewalk was an acceptable venue besmirches the very principle of free expression. A requirement that the Supreme Court police advise demonstrators where their First Amendent rights may lawfully be expressed would not burden police officers, and would place less of a burden on them than arrest and prosecution- because it is only the Supreme Court that holds such importance in American life.

CONCLUSION

The Petitioners' convictions for unfurling a banner on the public plaza at the United States Supreme Court violated their Due Process and First Amendment rights. For the foregoing reasons and any others that may appear to this Court, Petitioners respectfully request that the Court grant this petition for a writ of certiorari.

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(*Appointed by the Court)*

Attorney for Petitioners

APPENDIX A

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CERTIFICATE OF SERVICE

I, Mark Goldstone, do affirm that on this ____ day of March, 2011 that I did mail by first class mail, postage prepaid a copy of this Petition of Writ of Certiorari and a copy of the Motion in Forma Pauperis to

The Solicitor General of the United States
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Respectfully submitted,

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