

Sign Regulations: Where we are and where are we going?

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The Lead Up

- *Metromedia, Inc. v. City of San Diego*, 453 U.S. 490 (1981).
 - Commercial speech.
 - Substantial government interest.
- In 1983, the City of Austin prohibits off-premise signs.
- *Reed v. Town of Gilbert*, 576 U.S. 155 (2015).
 - Non-commercial speech.
 - Regulations based on the content of the speech.

Reagan National Advertising v. City of Austin

- In 2017, Reagan National Advertising sought to convert some of its billboards into digital signs.
- After the City denied the applications, Reagan National Advertising sued the City of Austin alleging that the City's 34-year distinction between on-/off-premise signs is an unconstitutional content-based restriction on speech.
 - In 2019, the trial court ruled in the City's favor.
 - In 2020, the Fifth Circuit Court of Appeals reversed.

The Fifth Circuit's Ruling

- Is Austin's distinction between on-/off-premise signs was content-based?
- Does Austin regulate commercial speech?

Is the Distinction Content-Based?

- The Court explained that a regulation can be content-based if it defines regulated speech by its function or purpose.
 - *Reed v. Town of Gilbert*, 576 U.S 155 (2015).
 - *Thomas v. Bright*, 937 F.3d 721 (6th Cir. 2019).
 - *Act Now to Stop War and End Racism Coalition and Muslim American Society Freedom Foundation, v. District of Columbia*, 846 F.3d 391, 396 (D.D.C 2017).
- The Court concluded that the City's regulates speech based on its purpose.

Is the Distinction Content-Based?

- The Court concluded that if a person must read the sign to determine whether the sign complies, the regulation is content-based.
 - Who is the speaker?
 - What is the speaker saying?
- The Court concluded that the City's distinction is content-based.

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