



Content Neutrality in Post-Reed v. Gilbert Era

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Reed v. Town of Gilbert

- 135 S.Ct. 2218 (2015)
- A case about signs
- But really about speech
- Decision has been applied to other types of speech regulations
 - But with mixed results
 - Will continue to evolve



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Reed v. Town of Gilbert – the ordinance

- Different rules for different types of temporary signs
- Size/location/duration requirements differed for:
 - Ideological signs
 - Political signs
 - Temporary directional signs
 - 20 other categories



Reed v. Town of Gilbert – what it changed

- Supreme Court adopted a new way for determining whether speech regs are:
 - Content neutral
 - Content based

Reed v. Town of Gilbert – the holding

- Content based includes restrictions aimed at:
 - Viewpoints
 - Topics
- Town's distinctions were content based, even if:
 - Intent was innocuous
 - They didn't target viewpoints
- Now, if you had to read sign, content based

Content neutral vs. content based

• *Content neutral:*

- Gets **intermediate** scrutiny
- Requires **significant** government interest

• *Content based:*

- Gets **strict** scrutiny
- Requires **compelling** government interest
- With a few exceptions

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