



Jailed Blogger Darren Chaker Wins First Amendment Case

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A California Blogger , **Darren Chaker** , recently reversed his conviction in federal court on First Amendment grounds where he said “Ms. **Leesa Fazal**, an investigator with the Nevada Attorney General’s Office, was “forced out” of her previous post with the Las Vegas Police Department.” See **Cato Institute** article. Supporters included **Cato Institute**, ACLU of San Diego, Electronic Frontier Foundation, First Amendment Coalition, and Brechner First Amendment Project at University of Florida. ?

After spending months in jail, Mr. Chaker imprisonment was found unjust. The Ninth Circuit, Case. No. 15-50138/ No. 15-50193, found, see opinion “Chaker’s blog post, which claimed that former police investigator Leesa Fazal “was forced out of the Las Vegas Metro Police Department,” does not qualify as harassment.” The court continued to state in relevant part, “The government also failed to prove that Chaker’s blog post satisfied the elements of defamation, including falsity and actual malice. *See N.Y. Times Co. v. Sullivan*, 376 U.S. 254 279–80 (1964).”

In this instance Nevada Attorney General Investigator Leesa Fazal of Las Vegas made multiple reports about the blog to her own agency, Las Vegas Metro Police Department, and FBI. None of them took any action to file charges. Until she contacted Mr. Chaker's probation officer alleging defamation, which people are typically sued for in civil court. Mr. Chaker was on probation for a white collar crime.

The Human Rights Defense Center published an article saying in part, “The First Amendment protects the right of everyone to use the Internet to criticize government officials – including people on supervised release from prison,” noted Electronic Frontier Foundation senior staff attorney Adam Schwartz.

As reported by the Cato Institute in a post appeal article, “Chaker notes on his personal blog that he is “only one of 4,708,100 people are on probation or parole.” Millions of individuals’ political speech could have been swept up under the precedent set by the lower court’s outrageous decision.... The decision in *Chaker v. United States* is thus a victory for First Amendment advocates and political activists everywhere. It protects the rights of even the most downtrodden and implicitly applies the correct defamation standard to political speech aimed at public officials.”

During oral argument on June 10, 2016, it was conceded the speech was non-criminal. The Ninth Circuits YouTube Channel, shows oral argument where the former chief judge did not appear happy about restricting non-criminal speech:

23:16 Judge Kozinski to AUSA - "You managed to bamboozle...I mean the United States, managed to fool the district judge imposing the condition...";

26:31 Judge Kozinski, "It's okay for the district court to say obey all laws...but this is not at all limited to criminal conduct...this is conduct that is not illegal...agree this is conduct that is not illegal?", reluctantly Government attorney said "agreed that the condition reached conduct that is not illegal."

Jailing a blogger for non-criminal speech for criticizing government is precisely what sets America apart from oppressive regimes who seek to control the media and thoughts of those who govern its population. In this instance, the government lost, but sets a dangerous precedent of how resources can be used to silence critics.