



OPINION

Taylor police officer seems unaware of basic civil rights protections





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Taylor police Officer Matthew Minard retaliated against an unhappy motorist after she extended her middle finger after receiving a traffic ticket in 2017.

Officer Minard, apparently intent on the last word being his, stopped the woman a second time and issued her a ticket for the original speeding offense, having originally issued a ticket for a lesser violation.

Retaliation for a citizen's exercise of her civil rights? Yes, and two federal courts have now said so.

The Brownstown Township woman was driving on Telegraph Road in June 2017 when Officer Minard stopped her for speeding. He apparently thought he was being a nice guy when he issued a ticket for a lesser charge that would not put points on her license. Unhappy with the ticket, the woman extended her middle finger toward the officer as she drove away.

Officer Minard stopped the woman a second time and changed the ticket to the original speeding violation. The woman later filed a federal lawsuit against Minard for violating her civil rights. She was right. The officer was wrong.

Last week, the United States Court of Appeals for the Sixth Circuit ruled that Officer Minard violated the driver's civil rights twice and reiterated what the courts have said for years and years: One, the driver's rude gesture was protected speech, and two, a police officer must have a valid violation of law or suspicion that a person is committing a crime in order to stop a person. Without a legally valid reason, the stop violates the Fourth Amendment to the Constitution.

While Officer Minard had legal justification to make the initial stop and issue a ticket, he lacked any legal reason for stopping her a second time. The only rationale imaginable is that the officer didn't like being flipped off and imagined it was a crime. Who could blame him? In his mind, he gave the driver "a break" and wrote her a ticket for a violation that would not put points on her

license and her response is to flip him the bird.

Without the woman's hand gesture expressing her dissatisfaction, the officer would have had no reason to stop her vehicle the second time. But, no officer could believe that being flipped off was a crime. Right? Wrong!

Officer Minard's response to the federal lawsuit filed against him (and, it should be noted, the suit did not name the police department or the city as defendants but city tax dollars are paying for this debacle as it winds repeatedly through the courts) was to deny the basic, fundamental right long established that the driver's conduct in extending just one finger is protected speech.

"Defendant ... denies that it is a constitutional protected First Amended (sic) right," Minard's attorney Mark Peyser wrote in his response to the lawsuit.

Wow.

Free speech, which includes more than actually speaking, including using signs, marching or making gestures, is protected. It is one of the most fundamental of our rights. Another is the freedom to peacefully protest the actions of our government.

A 2013 federal appeals decision should have been a reminder for officers everywhere. In that case, a man flipped off a New York officer who was using radar as he and his wife drove by. The officer stopped them and arrested the man for disorderly conduct. The court said the gesture was protected speech.

A 2018 case out of Virginia was similar. The federal district judge found the stop of a vehicle because a passenger flipped off the officer violated the Fourth Amendment. Judge Jackson Kiser said, "a reasonable officer should have known that any seizure was in contravention of the Constitution."

In the 1987 case of *City of Houston v. Hill*, the U.S. Supreme Court ruled that the First

Amendment protects much of the speech that police and the rest of us likely would object to. The court said, “the First Amendment requires that officers and municipalities respond with restraint in the face of verbal challenges to police action, since a certain amount of expressive disorder is inevitable in a society committed to individual freedom.”

The “peace” of a police officer generally can’t be disturbed the courts have said. Unless the person uses “fighting words,” defined loosely as words likely to provoke an immediate confrontation such as threats or offers to fight, we expect officers to have a bit of a thicker skin. It goes with the job.

In another Sixth Circuit case decided in 1997, *Sandul v. Larion*, the Court ruled that extending the middle finger accompanied by the words “F&%K You” does not constitute “fighting words” and on their own does not equal criminal conduct. That case involved an officer with the Livonia Police Department and the court stated that case law was clear then, in 1990 when the arrest took place.

It is unfathomable that a professional, competent police officer would be so lacking in such basic knowledge today.

From the very beginning, Officer Minard’s supervisors should have taken steps to void the ticket with the court, apologize to the woman and reprimand and retrain Officer Minard.

Debra Cruise-Gulyas’ crude behavior, while childish, is protected speech and our police officers who swear an oath to “support and defend the Constitution” should know it.

Officer Minard has appealed this latest court loss.

Kevin Walters is a former police officer who now runs The CAUTION Group, a Southgate-based police consulting firm.



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