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#### Interp: Gun ownership on state property isn’t constitutionally protected speech – that’s the ONLY court ruling and relies on supreme court precedent. You’re extra topical

Judge O’Scannlain 3: [RUSSELL ALLEN NORDYKE; ANN SALLIE NORDYKE, dba TS Trade Shows; JESS B. GUY; DUANE DARR; WILLIAM J. JONES; DARYL DAVID; TASIANA WERTYSCHYN; JEAN LEE; TODD BALTES; DENNIS BLAIR; R.A ADAMS; ROGER BAKER; MIKE FOURNIER; VIRGIL MCVICKER, Plaintiffs-Appellants, v. MARY V. KING; GAIL STEELE; WILMA CHAN; KEITH CARSON; SCOTT HAGGERTY, COUNTY OF ALAMEDA; THE COUNTY OF ALAMEDA BOARD OF SUPERVISORS, Defendants-Appellees. Appeal from the United States District Court for the Northern District of California Martin J. Jenkins, District Judge, Presiding Argued and Submitted August 10, 2000 Submission Vacated, Certified to California Supreme Court September 12, 2000 Certified Question Decided by California Supreme Court June 26, 2002 Supplemental Briefing Ordered September 6, 2002 Resubmitted February 11, 2003 San Francisco, California Filed February 18, 2003 Before: Arthur L. Alarcón, Diarmuid F. O’Scannlain and Ronald M. Gould, Circuit Judges. Opinion by Judge O’Scannlain; Concurrence by Judge Gould //BWSWJ]

We consider first Nordyke's challenge to the Ordinance on the grounds that it infringes his First Amendment right to free speech.   The district court squarely rejected Nordyke's argument that gun possession is expressive conduct protected by the First Amendment and that the ban on the possession of firearms unconstitutionally interferes with commercial speech.2 A As to Nordyke's expressive conduct claim, the Supreme Court has “rejected the view that an apparently limitless variety of conduct can be labeled ‘speech’ whenever the person engaging in the conduct intends thereby to express an idea.”  Texas v. Johnson, 491 U.S. 397, 404, 109 S.Ct. 2533, 105 L.Ed.2d 342 (1989) (citation and internal quotation marks omitted).   However, the Court has “acknowledged that conduct may be sufficiently imbued with elements of communication to fall within the scope of the First and Fourteenth Amendments.”  Id. (citation and internal quotation marks omitted).  In the case at hand, Nordyke argues that possession of guns is, or more accurately, can be speech.   In evaluating his claim, we must ask whether “[a]n intent to convey a particularized message [is] present, and [whether] the likelihood [is] great that the message would be understood by those who viewed it.”  Spence v. Washington, 418 U.S. 405, 410-11, 94 S.Ct. 2727, 41 L.Ed.2d 842 (1974).   If the possession of firearms is expressive conduct, the question becomes whether the County's “regulation is related to the suppression of free expression.”  Johnson, 491 U.S. at 403, 109 S.Ct. 2533.   If so, strict scrutiny applies.   If not, we must apply the less stringent standard announced in United States v. O'Brien, 391 U.S. 367, 377, 88 S.Ct. 1673, 20 L.Ed.2d 672 (1968).  The first step of this inquiry-whether the action is protected expressive conduct-is best suited to an as applied challenge to the Ordinance.   However, in this case, Nordyke challenged the law before it went into effect.   Accordingly, he mounts a facial challenge, relying on hypotheticals and examples to illustrate his contention that gun possession can be speech.  In evaluating Nordyke's claim, we conclude that a gun itself is not speech.   The question in Johnson was whether flag burning was speech, not whether a flag was speech.  491 U.S. at 404-06, 109 S.Ct. 2533.   Here too, the correct question is whether gun possession is speech, not whether a gun is speech.   Someone has to do something with the symbol before it can be speech.   Until the symbol is brought onto County property, the Ordinance is not implicated.   See also Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503, 89 S.Ct. 733, 21 L.Ed.2d 731 (1969) (analyzing whether the wearing of armbands is speech, not whether armbands themselves are speech);  O'Brien, 391 U.S. at 376, 88 S.Ct. 1673 (analyzing whether burning of draft cards is speech).  In the context of a facial challenge, Nordyke's contentions are unpersuasive.   Gun possession can be speech where there is “an intent to convey a particularized message, and the likelihood [is] great that the message would be understood by those who viewed it.”  Spence, 418 U.S. at 410-11, 94 S.Ct. 2727.   As the district court noted, a gun protestor burning a gun may be engaged in expressive conduct.   So might a gun supporter waving a gun at an anti-gun control rally. Flag waving and flag burning are both protected expressive conduct.   See Johnson, 491 U.S. at 404-06, 109 S.Ct. 2533.   Typically a person possessing a gun has no intent to convey a particular message, nor is any particular message likely to be understood by those who view it.   The law itself applies broadly to ban the possession of all guns for whatever reason on County property. The law includes exceptions, primarily for those otherwise allowed to carry guns under state law, but these exceptions do not narrow the law so that it “has the inevitable effect of singling out those engaged in expressive activity.”  Arcara v. Cloud Books, Inc., 478 U.S. 697, 706-07, 106 S.Ct. 3172, 92 L.Ed.2d 568 (1986). As Nordyke's “facial freedom of speech attack” does not involve a statute “directed narrowly and specifically at expression or conduct commonly associated with expression,” his challenge fails.   See Roulette v. City of Seattle, 97 F.3d 300, 305 (9th Cir.1996) (quoting City of Lakewood v. Plain Dealer Publishing Co., 486 U.S. 750, 760, 108 S.Ct. 2138, 100 L.Ed.2d 771 (1988)).   In Roulette, we turned back a facial First Amendment challenge to a city ordinance prohibiting sitting or lying on the sidewalk.   The plaintiffs argued that the law infringed their free speech rights because sitting and lying can sometimes communicate a message.   See id. at 303.   We “reject[ed] plaintiffs' facial attack on the ordinance” because this conduct is not “integral to, or commonly associated with, expression.”  Id. at 305.   Likewise, Nordyke's challenge fails because possession of a gun is not “commonly associated with expression.”  Nordyke points out that several of the rifles for sale are decorated with political messages, most prominently the National Rifle Association Tribute Rifle, which depicts the NRA banner, a militia member and an inscription quoting the Second Amendment:  “The Right of the People to Keep and Bear Arms.” Where the symbols on the gun (not the gun itself) convey a political message, the gun likely represents a form of political speech itself.   See Gaudiya Vaishnava Soc'y v. City and County of San Francisco, 952 F.2d 1059, 1063 (9th Cir.1991) (holding that merchandise displaying political messages are entitled to First Amendment protection).   Here, Nordyke is mounting a facial challenge.   In this context, the presence of a handful of NRA Tribute Rifles at a show at which the vast majority of the prohibited guns bear no message whatsoever does not impugn the facial constitutionality of the Ordinance.   See Roulette, 97 F.3d at 305;  cf.  Gaudiya, 952 F.2d at 1064-65 (upholding First Amendment challenge where case involved only merchandise bearing political messages).   Thus, we agree with the district court's conclusion that the Ordinance does not unconstitutionally infringe expressive conduct.3

#### Violation – You defend removing restrictions on handguns

#### Even if your evidence is right, it admits not all restrictions on gun possession, eg. Carrying loaded guns, are protected

Blanchfield 14 [Blanchfield, Patrick ~Freelance Writer; PhD in Comparative Literature, Emory University~. "What do Guns Say?" The New York Times. 04 May 2014. <https://opinionator.blogs.nytimes.com/2014/05/04/what-do-guns-say/>. //BWSWJ]

In practical terms, this litmus test suggests that you can carry a gun as symbolic speech, particularly in the context of a pro-Second Amendment demonstration. The state’s clear interest in maintaining public order can be narrowly satisfied by demanding that protesters either carry guns that are unloaded — at least with an open chamber — or which otherwise have the barrel or action blocked. Thus far, open carry protesters have largely followed this rule, notably by sticking tiny American flags into their guns. “If the SWAT team comes down and starts surrounding us with tactical gear, it only takes a minute to pull them out,” the organizer of one such event told reporters. “But that’s not going to happen.”

#### Standards

#### Field Context – My interp is the most representative of the discussion in the lit because a) it differentiates between protected and non protected speech – which provides a clear delineation for ground and reflects how authors talk about constitutional speech. b) The interp cites direct court precedent – prefer court judgment over author’s interpretations on constitutionality because authors are always biased – they argue for constitutionality ad hoc to be consistent with whatever position they are defending instead of grounding their argument in constitutional jurisprudence.

#### Field context is key to any voter –topic lit is constructed based on shared assumptions in the field. Debate is simulated policymaking; correct interpretation of the legal system is constitutive of the activity.

#### Semantic justifications outweigh pragmatic ones – you proving another interpretation is more educational or fair is a reason only justifies that it would be more beneficial to debate another topic, not a reason we should use that definition while debating the actual one.

#### Limits - There are thousands of speech codes and policies that the aff can choose to overturn – destroying my ability to engage the aff. Lukianoff (Greg Lukianoff, "Campus Speech Codes: Absurd, Tenacious, and Everywhere", May 23, 2008 , https://www.nas.org/articles/Campus\_Speech\_Codes\_Absurd\_Tenacious\_and\_Everywhere)

For our 2007 report, FIRE surveyed publicly available policies at the 100 “Best National Universities” and at the 50 “Best Liberal Arts Colleges,” as rated in the August 28, 2006 “America’s Best Colleges” issue of U.S. News & World Report. FIRE surveyed an additional 196 major public universities. (because public universities are legally bound by the First Amendment, FIRE is continually adding data on public universities to our database, at a rate consistent with our available resources). Several FIRE staff members spent a substantial portion of their year researching literally thousands of policies and rules in student handbooks, other official campus materials, and on schools’ websites. The policies were then evaluated by FIRE’s specialized lawyers and assigned a red (worst), yellow or green light (best) rating to the university based on the extent to which their written policies restricted constitutionally protected speech. We publicly post all of the relevant materials, our ratings, and excerpts containing the language most dangerous to basic liberties on our Spotlight website (www.thefire.org/spotlight). It is, to our knowledge, the most extensive evaluation of campus codes ever attempted. A school is given a “red light” if it has at least one policy that both clearly and substantially restricts freedom of speech. A “clear” restriction involves a threat to free speech which is obvious on the face of the policy, whereas a “substantial” restriction is one that is broadly applicable to important categories of campus expression. A “yellow light” institution is one that has policies which could be interpreted to suppress protected speech, or policies that, while restrictive of freedom of speech, restrict only narrow categories of speech. For example, a policy banning “verbal abuse” would have broad applicability and would pose a substantial threat to free speech, but it would not be a clear violation because “abuse” might refer to unprotected speech, such as threats of violence or genuine harassment. “Yellow light” policies may still be unconstitutional,28 but they do not clearly and substantially restrict speech in the same manner as “red light” policies. If FIRE finds no policies that seriously imperil protected speech, a college or university receives a “green light.” This does not necessarily mean that a school actively supports free expression. It simply means that the school does not have any publicly available written policies which violate students’ free speech rights. Of the 346 schools reviewed by FIRE, 259 received a red-light rating (75%), 73 received a yellow-light rating (21%), and only 8 received a green-light rating (2%). Six schools did not receive any rating from FIRE. Surprisingly, public schools, which are unambiguously legally bound by the First Amendment, actually had a somewhat higher percentage of “red light” ratings; a full 79% of public schools were “red light,” 19% “yellow light”, and 2% green.

#### My interp strikes the best limit for specific plans – allowing you to do the res, plus whatever you want makes it impossible for me to prep for your offense. Even if the aff is predictable, limits prevents me from adequately engaging. Limits are key to fairness because they protect the negative’s ability to engage the aff and ensure the neg can form a coherent strategy.