Burned flag and free expression ---- case Texas v. Johnson (1989)

**Basic information:**

This is a 1989 case, but it happened on August 22, 1984 in Dallas, Texas. During a demonstration outside the Republican National Convention in the United States, protesters vandalized windows and roadside walls. Things got out of hand, and then things got worse. Johnson, a member of the American Communist Party, was given a stolen flag of the United States of America, and then Johnson cursed the red, white, and blue colors of the flag, poured kerosene on the flag, and set the flag on fire. He soon paid the price for his actions, and the police who arrived shortly after arrested him for the reason that he violated the law in Texas, which is to destroy objects of respect to others just like the American flag . His behavior is likely to cause public anger and resentment easily. The court later found Johnson guilty and sentenced him to one year in prison, along with a fine of $2,000.That was the verdict of a court in his home state of Texas.This is also a prelude to the emergence of this classic legal case.It has become one of the most controversial cases in American legal history, and it is still widely discussed today, more than 30 years later.

After the Texas court ruled that Johnson was guilty, he filed an appeal, arguing that his behavior was symbolic speech and protected by the First Amendment of the United States, which was a breakthrough for Johnson himself to escape from crime, and the entry point was also a major turning point in the judgment of this case.In addition, the court found no evidence that Johnson had harmed or threatened other people by burning the flag at the march, so it agreed to hear his case again and transfer it to the state court, the highest court in Texas responsible for criminal cases.

Because of the two main reasons for the appeal, the Supreme Court agreed to hear Johnson's flag burning and heard oral arguments in March 1989. In June of the same year, the Supreme Court upheld the Texas court's decision by a 5-4 vote and held that Johnson's speech was a symbolic speech protected by the First Amendment of the United States, and that courts and the government could not set up laws to prevent and punish the expression of a person because they did not like the speech and behavior of the person.This was the final verdict in the classic case of in 1989.

**Individual analysis of the case:**

What makes this case special is that it is not an ordinary civil dispute. It does not involve property, marriage, property rights, or even personal interests. In this case, the defendant is undoubtedly Johnson, and the plaintiffs are judges with their backs to the government and the law.In this case, the court allowed Johnson to invoke the First Amendment in his defense. Even though burning the flag often represents a breach of the peace, the court insisted that his actions did not disturb the peace or harm others. This has also caused some controversy. But everything seems reasonable when combined with the focus of Texas law, which states that the flag cannot be damaged to harm others, not just to emphasize the integrity of the flag in a physical sense. It is clear that Johnson did not threaten harm by burning the flag. On this basis, his appeal was successful.

This case is also unique in that the justices have different views and opinions, such as Justice William. Rehnquist and Byron who agreed that the flag of the United States has a special status in some way. The flag is a symbol of national unity and integrity. Every American lives under the flag. Regardless of religion, social class, color, race, or ideology, tens of millions of Americans Revere the national flag. For the past two hundred years of American history, the flag has not actually stood for anything. It symbolizes freedom and fairness, and it doesn't matter whether the Communist Party or the Republican Party is in power. The national flag is only a symbol and does not represent any political position. Their country also needs the national flag to maintain peace, and burning the national flag in public places is a dangerous act that undermines peace.

Obviously. This has nothing to do with Anthony. Justice Kennedy took a different view, and the fundamental difference was in the flag and the spirit of liberty. He and the court believed that the flag was America's search for justice and the pursuit of freedom, that they were persistent in the pursuit of freedom, and that the flag was freedom itself. The more important values of freedom should not be sacrificed because of an offense to the flag. While the flag protects those who respect it, it also naturally contains those who have other opinions. Attacking the flag is an “expression of speech”1.In this case, tolerating the offense to the flag is a consideration of the spirit of freedom behind the flag and a price to be paid for pursuing it.

**Influence:**

Johnson's victory represented a First Amendment violation of state laws protecting the flag, invalidating laws in 48 states, including all 50. This soon triggered a public outcry. People have suggested that the crime of flag-harming should be written into the supreme law to make Johnson's case punishable. After several rounds of voting, the crime of damaging the flag was not written into the constitution as hoped. Over time, in the March 2000 vote, support for the court has gradually increased, and people's minds have gradually changed. But the case remains controversial.

Just as Shao Zhizi said 2“this case, based on the constitutional dispute over the burning of the American flag, discussed the dichotomy between speech and action in the issue of freedom of speech in the United States. Under what circumstances does an act enjoy the same constitutional protection as an spoken word, i.e. equivalent to words; The Supreme Court has long wavered in practice over the circumstances under which words do not deserve the same treatment.”

Perhaps as Justice Kennedy put it, "the harsh truth is that sometimes we have to make decisions we don't like," the flag's protector, all of us, even those who wish to discredit him, is painful and essential. I have seen the frustration and controversy of the judges' choices in this case, and I have seen the court make decisions they do not like in the more important spirit of freedom. That's what makes this case so special.

**Reference:**

(1):Jian cha feng yun, 2016 (2), p.58-59

(2):Meiguo yan jiu (Beijing, China), 2002, Vol.16 (1), p.82-95