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Gelling Vs. Texas

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Court : US Supreme Court

Decided On : Jun-02-1952

Appeal No. : 343 U.S. 960

Appellant : Gelling

Respondent : Texas

Judgement :

Gelling v. Texas - 343 U.S. 960 (1952)
U.S. Supreme Court Gelling v. Texas, 343 U.S. 960 (1952)

Gelling v. Texas

No. 707.

Decided June 2, 1952

Concurring Opinion of Justice Jackson June 9, 1952

343 U.S. 960

PER CURIAM.

The judgment is reversed. *See Burstyn v. Wilson,* 343 U. S. 495 , and *Winters v. New York,* 333 U. S. 507 .

MR. JUSTICE FRANKFURTER, concurring in the judgment of reversal:

The appellant here was convicted under an ordinance of the city of Marshall, Texas, for exhibiting a picture after being denied a license by the local Board of Censors, and the conviction was affirmed by the Court of Criminal Appeals of Texas. The ordinance authorizes a local Board of Censors to deny a license for the showing of a motion picture, which the Board is "of the opinion" is "of such character as to be prejudicial to the best interests of the people of said City," and makes the showing of a picture without a license a misdemeanor. This ordinance offends the Due Process Clause of the Fourteenth Amendment on the score of indefiniteness. *See* my concurring opinion in *Burstyn v. Wilson,* 343 U. S. 495 , and *Winters v. New York,* 333 U. S. 507 .

MR. JUSTICE DOUGLAS, concurring.

The appellant was convicted under an ordinance of the city of Marshall, Texas, for exhibiting a picture after being denied permission to do so by the local Board of Censors. The conviction was affirmed by the Court of Criminal Appeals of Texas. The ordinance authorizes a local Board of Censors to deny permission for the showing of a motion picture which, in the opinion of the Board, is "of such character as to be prejudicial to the best interests of the people of said City," and it makes

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the showing of a picture after refusal of permission a misdemeanor.

The evil of prior restraint, condemned by *Near v. Minnesota,* 283 U. S. 697 , in the case of newspapers and by *Burstyn v. Wilson,* 343 U. S. 495 , in the case of motion pictures, is present here in flagrant form. If a board of censors can tell the American people what it is in their best interests to see or to read or to hear (*cf. Public Utilities Comm'n v. Pollak,* 343 U. S. 451), then thought is regimented, authority substituted for liberty, and the great purpose of the First Amendment to keep uncontrolled the freedom of expression defeated.

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