

## Supreme Court hears controversial case for fallen soldier's protested funeral

TIM GETTING

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Questions concerning the constitutionality of protesting at a funeral were discussed at the US Supreme Court hearing of *Snyder v. Phelps* today. The hour-long proceeding featured tense argument that focused on claims that members of Westboro Baptist Church (WBC) impeded on the privacy rights and intentionally inflicted emotional distress upon the family of Matthew Snyder.

Snyder, a US Marine, was killed March 3, 2006, during a non-combat-related vehicle accident while serving in the Iraq War.

Snyder's father, Albert Snyder, sued WBC after discovering that seven members of the church were picketing outside of the funeral site in Westminster, Md. Picket signs touted sayings such as "God hates you" and "Thank God for dead soldiers."

A decision from the US District Court of Maryland in October 2007 favored Snyder's case against Westboro's pastor Fred Phelps and awarded the plaintiff \$5 million in damages. However, the US Court of Appeals for the Fourth Circuit reversed that decision in September 2009, stating that the church's actions fell under the protection of the First Amendment.

Today, Supreme Court justices heard arguments from and questioned Sean Summers, who represented Snyder, and Margie Phelps, who represented her father and his church.

"If context is ever going to matter, it has to matter in the context of a funeral. Mr. Snyder simply wanted to bury his son in a private, dignified manner," said Summers in his opening statement.

Summers' two central causes for action included arguments that the privacy of the Snyder family was violated and that the protest conducted outside the cemetery gates, as well as published materials that accompanied the protest, were intended to inflict emotional distress upon them.

Considering Snyder to be a private figure, Summers claimed that the words of the picket signs paired with the epic that specifically named Matthew Snyder and claimed that he was "raised for the devil," were attacks outrageous enough to be in violation of the First Amendment.

"The private targeted nature of the speech in our judgment is what makes it unprotected," Summers stated.

"Public speech, even directed to a private figure, should be treated differently than as directed toward a public official."

In a 1987 decision, *Hustler Magazine, Inc. v. Falwell*, the Supreme Court ruled that public figures could not claim intentional infliction of emotional distress unless the attacking party disclosed false statements that were delivered with "actual malice."

Phelps' argument contradicted Snyder's view as she argued that Snyder made his son's death a public matter, and therefore it should not matter whether he is a private or public figure.

"I believe that the umbrella of protection under the First Amendment that this Court has established firmly is speech on public issues," said Phelps.

“Sometimes you get under that umbrella because it’s a public official or it’s a public figure, but the umbrella that you give the protection for is speech on public issues.”

Justices seemed to consider this to be the more compelling argument when compared to the claim that WBC members disrupted a captive audience at a private funeral. However, most arguments surrounding privacy were eventually linked to arguments surrounding the First Amendment.

Justice Stephen G. Breyer, pointing out the fact that Snyder did not see the signs during the funeral, in turn questioned the lawfulness of WBC broadcasting their opinion about Snyder on television and publishing it online.

“Under what circumstances can a group of people broadcast on television something about a private individual that’s very obnoxious[?] To what extent can they put that on the Internet, where the victim is likely to see it, either on television or by looking it up on the Internet?” he asked.

The church’s intentions were questioned as well. Despite having picketed at two locations in Maryland with most of the same signs earlier that day, the protesters made the funeral their third and final location, perhaps seeking publicity to an extreme extent.

“It was not an issue of seeking maximum publicity; it was an issue of using an existing public platform to bring a viewpoint that was not being articulated,” responded Phelps.

Westboro Baptist Church is a primitive baptist church based out of Topeka, Kansas. Although their congregation is small (under 100 people), their anti-gay and anti-American message has become nationally-known as members of the church span the nation picketing. According to their website, WBC has conducted almost 45,000 demonstrations since 1991.