



Chalk One Up for Equal Treatment

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“The government may not enforce the laws in a manner that picks winners and losers in public debates,” [ruled](#) Judge Neomi Rao.

This, in response to a case where anti-abortion protesters were arrested for chalking the words “Black Pre-born Lives Matter” on a Washington, D.C., street back in 2020.

Emma Camp makes clear, in her *Reason* [coverage](#) of the ruling, that the case is not as simple as it may sound in the headlines. “While writing chalk messages on public streets and sidewalks is considered vandalism in D.C., protest leaders had an earlier conversation with a police officer in which he ‘explained that he believed Mayor Bowser had effectively opened up the District’s streets for political markings.’”

Nevertheless, during the protest, “police told demonstrators that they would be arrested if they painted or chalking any messages.” Two individuals in the pro-life protest defied police order and scribbled their message in chalk.

It’s actually a bigger issue than just an altercation during a protest. The police in D.C. had not merely looked the other way, allowing helter-skelter displays of “Black Lives Matter” graffiti, but the city government had actually gotten in on the act and messaged “Black Lives Matter” on the streets itself — *in bold paint*.

This obviously sends a message to disagreeing citizens: we are on *this* side, not *that*.

As Judge Rao insists, “The government may not play favorites in a public forum — permitting some messages and prohibiting others.”

She interprets this injunction as pertaining to the First Amendment, but it goes much deeper than that, reaching to the core idea of a rule of law, and equality of treatment under it.

This is Common Sense. I’m Paul Jacob.