Show Me The Body ... of Evidence!
Habeas Corpus in the District Court



Tenniel, John. "The Federal Phoenix." Punch, vol. 47, 3 Dec. 1864, p. 229. *The Victorian Web*.

What is a *Petition for a Writ of Habeas Corpus*?

Habeas corpus is a Latin phrase that means "*you may have the body*." It is defined as the right not to be held in jail without cause. A Petition for a Writ of Habeas Corpus is filed when a person in custody believes they are unlawfully imprisoned. The defendant would then have their lawyer file the petition, and if a judge grants it, they would be brought before the judge to determine whether their detention is lawful. A key moment in the history of habeas corpus came during the Civil War, when President Lincoln suspended the writ so the military could detain suspected disloyal individuals without formal charges.

In *Smith v. Goguen*, Valerie Goguen was convicted and sentenced under a Massachusetts statute for wearing a flag on the seat of his pants. Seeking relief from the sentence, he filed a habeas petition in federal court arguing that the Massachusetts statute under which he was convicted was unconstitutionally vague. His petition was granted by Judge Levin H. Campbell. Subsequently, he was released from state prison and brought before Judge Campbell in the Federal District Court for the District of Massachusetts.

Habeas Corpus in the Context of *Goguen*

Originally, Goguen was convicted under a state law, which can generally only be interpreted by state courts. After pursuing every available appeal up to the Massachusetts Supreme Judicial Court, Goguen had two options: appeal his case directly to the Supreme Court of the United States or file a petition for a writ of habeas corpus in the U.S. District Court for the District of Massachusetts.

The habeas petition allowed him to bring his case in federal court because he was invoking federal constitutional principles, which fall within the jurisdiction of the federal courts. Goguen used the petition to challenge his detention as unconstitutional under the First and Fourteenth Amendments. Only about 1% of habeas petitions are successful, so Goguen knew his was statistically likely to fail. He believed, however, that he had a valid constitutional claim that should be considered by the federal courts. Luckily, his petition was successful and he was brought before Judge Campbell in the District Court for the District of Massachusetts.

"The statutory language, on its face, condemns a spectrum of expression and conduct much of which the First Amendment, as it is now interpreted, protects."

-Judge Levin H. Campbell



Portrait of Judge Levin H. Campbell, *Collection of the U.S. Court of Appeals for the First Circuit.*

Reasoning of the District Court

Judge Campbell of the U.S. District Court for the District of Massachusetts issued a ruling agreeing with Goguen. He reasoned that the statute's language criminalizing anyone who "*treats contemptuously*" the flag of the United States was unconstitutionally broad under the First and Fourteenth Amendments. His ruling concluded that such vague language could be interpreted to prohibit a wide range of conduct, some of which would be protected speech under the First Amendment. Because the statute did not provide a "*readily ascertainable standard of guilt*", it would be up to law enforcement and the courts to decide who should be punished. This would inevitably lead to arbitrary and selective enforcement of the law, which violates the **Due Process Clause** of the Fourteenth Amendment. The ruling also explained how cultural norms around flag use had shifted over the decades, so what might have been seen as contemptuous when the law was passed was now commonplace. As a result of his decision, Judge Campbell vacated Goguen's conviction and ordered him released from state custody. Disagreeing with the District Court's opinion, Sheriff Smith and Massachusetts appealed to the U.S. Court of Appeals for the First Circuit.

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