In an 8-1 decision, the Supreme Court upheld the First Amendment rights of a defendant to create or sell dog fighting videos and other depictions of animal cruelty, effectively invalidating a federal law from 1999. The defendant is Robert J. Stevens, an author and film producer who was sentenced to 37 months in a federal prison for compiling and selling videos showing dogfights. Chief Justice John Roberts, writing for the majority, said that the law was “a criminal prohibition of alarming breadth” and called the government’s defense of the law “startling and dangerous”. In the majority’s view, the First Amendment protects all kinds of speech, except in cases such as child pornography; and the Court has no authority to restrict speech based on its inherent value or intrinsic moral quality. The decision left open the possibility that Congress could enact a narrower law more targeted at the underlying activity. In the Chief Justice’s opinion, the law is much too broad and would prohibit representations of “extreme animal cruelty” would be within constitutional limits.

I find it interesting that the Court is dealing with so many First Amendment cases recently-first the Citizens United decision, and now this. I doubt that United States v. Stevens will be remembered in the history books, but it does underscore how much protection free speech enjoys in the United States. Like many aspects about our governmental system, this is both a good and a bad thing. Good because everyone has nearly limitless opportunity to say anything they want, bad because some of the things people want to say go against public approval. Personally, I think we need to maintain this balance. In this case, Congress should have formulated the law so it didn’t target the person creating or selling such videos, but the underlying activity.

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