



E-BRIEFS



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Special Points of Interest:

- *Tennant v. Jefferson Cty. Comm'n. One Person = One Vote?*
- *U.S. v. Jones— The Fourth Amendment Gets Stronger*
- *Essay Contest Ongoing*

ONE PERSON ONE VOTE? TENNANT V. JEFFERSON CNTY COMM.'N

One person one vote— that is the maxim every little school child in America is brought up to believe as they learn the basics of our democracy. Nowhere in our Federal Government is this maxim supposed to be more protected than in the House of Representatives. However, the question of whether this principle still applies at the Capitol is coming to the Supreme Court this term (that is before the June 2012 recess).

The House of Representatives has 435 members. Every ten years, after the Census, Representatives are re-allotted to the States to balance the House in accordance with population changes. More populous states have more representatives (i.e. California) and less populous states (West Virginia) have less. However, in the end each representative, whether he is from California or West Virginia represents almost exactly the same number of people.

Enter the case of *Tennant v. Jefferson Cnty Comm'n.* On January 20, the Supreme Court issued a stay in that case from an order from the District Court— that is this case is skipping the usual



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RECENT NEWS— ESSAY CONTEST ONGOING

On January 2, 2012 we announced our 7th Annual Law Day Essay Contest. This year's topic asks students, given the guidance of the First Amendment, should Creationism be taught in public schools or left to more private settings. The goal of the essay contest is to encourage students to think about our Constitution and laws and how those can affect our everyday lives, even dictating what we are allowed to learn and where.

First Prize is a \$500 cash scholarship and Second Place will be awarded a \$200 cash scholarship. Entries must be postmarked by April 14, 2012 to be considered. Winners will be announced on our website and this newsletter on May 1, 2012. We look forward to reading this year's entries!



ONE PERSON ONE VOTE— CONTINUED FROM PAGE 1

route of District Court to Appeals Court then Supreme Court, taking a fast track.

After the 2010 Census, West Virginia gets 3 representatives. Accordingly, West Virginia attempted to re-draw their districts (as all states do) so as to even out the head count in each representative district. Then the Federal Courts stepped in. The Federal Courts noted that the State of West Virginia was using outdated software (not old data, just old software) and that new software was capable of drawing districts such that there was absolutely zero difference in population between districts (West Virginia's plan has slightly more in one district than in the other two). The Federal Court went on to order that since it was possible using the new software to achieve absolute parity that they were going to require West Virginia to do so.

The Supreme Court has stayed the order which means that West Virginia's elections (this year) will use the districts drawn with the old software. However, the case has large implications and should be watched. First, this mandate to purchase software rings remarkably similar to the health care case wherein the population is being mandated to buy health insurance. Also, could

U.S. V. JONES— UNANIMOUS VERDICT

As some will recall, October we previewed the case of U.S. v. Jones on this website. The Jones case involved the installation of a GPS tracking device onto Jones' automobile, without a warrant, and tracking his vehicle's movement through public streets for a period of approximately four weeks. The Government argued that this action did not constitute a search and thus was not covered by the Fourth Amendment to the Constitution.

The factual situation developed as follows: The Feds believed that Jones was involved in drugs, probably trafficking, in the D.C. metropolitan area. The Feds got a warrant from a judge authorizing them to place the GPS tracker on Jones' wife's car. The warrant specified that the tracker was to be placed on the car within the District of Columbia and within 10 days of issuing the warrant. The Feds then attached the tracker to Jones' wife's car, 11 days after the warrant was issued, while the car was in Maryland. They then left the tracker in place for 28 days, without serving the warrant or otherwise informing Jones or his wife, and then arrested Jones for drug trafficking. He was convicted based largely on the evidence of the vehicle's movements during the four week long tracking.

Jones appealed his conviction arguing that the Feds tracking of his vehicle was an unreasonable search and that it required a valid warrant, which the Feds obviously did not have. His argument was weakened by previous opinions of the Court that said a person has no privacy interest in the movement of their vehicle on a public street. However, each of those decisions had been in cases where the police actually followed the car around a city and watched it for brief intervals.

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ONE VOTE— CONTINUED FROM PAGE 2

this signal a reversal of *Bush v. Gore* (remember that one!?!). There the Supreme Court was adamant that Federal Elections were a State area of governance. That is the State made the rules on whose votes counted and whose did not, etc. and that the rules must be applied equally. Regardless of whether or not you agree that was done or followed, it's what the Court wrote. If a federal election, such as for Representative, is a State matter, then why are the Federal Court involved in setting who can vote?

This case bodes for an expansion of the Federal Government into areas traditionally held inviolate to the State. Such an expansion of Federal Authority over state government has not occurred in quite some time. Therefore, this case has the potential to re-ignite the debate regarding state rights versus federal authority and will also be a bell-weather this election year for the size and scope of our federal government to come.

Legal Resolutions— Cont'd from P. 2

The Feds argued that they actually didn't need the warrant because attaching the tracer to the car and uploading that information to a computer to be reviewed later was not a search and therefore not covered by the Fourth Amendment.

Ultimately, the court disagreed, in a 9-0 opinion the Court found that attaching a tracker to a car is fundamentally different from following a car around. Because it involves such intimate knowledge, without the consent or knowledge of the observed, the Court found that a judicial overseer in the form of a warrant was required.