

FREEDOM OF SPEECH: HOW FAR CAN WE GO?

I'd like to preface this newsletter with my opinion that, even though this subject isn't directly related to traffic law or DUI offenses,

I feel the implications of mismanaging our First Amendments rights could prove detrimental to many areas of our lives (including our ability to speak against accusations brought against us in court), and thus feel the need to share the thoughts below.

In kindergarten, I learned "sticks and stones can break your bones, but words can never harm you." It took me awhile to figure out how very wrong that little ditty was.

In the aftermath of the Tucson shootings, politicians and media have encouraged all to be a little more "civil" in their discourse. There were calls of "bipartisanship" by both sides, which lasted about as long as it took to have the State of the Union speech and the Republican response thereto. We have in fact become a nation of speech mongers. Watch about 5 minutes of a typical "news" show these days, and you will hear hate speech, fear speech, abusive speech, but very rarely will you hear a true, well thought out debate on the issue. TV news, after all, is actually entertainment, not news.

Some were quick to blame the Tucson shootings on the vitriolic speech one hears from politicians and media. The main example was the "In the Crosshairs" speech from a Sarah Palin website, in which she placed crosshairs of a gun on several Democratic politicians' districts. There have been calls for laws making it a crime to use speech in a way that could lead to violence against members of Congress. So the question remains: with our freedom of speech, how far can we go?

The First Amendment of our Constitution affects our daily lives by ensuring that we have the freedom to voice our opinions and criticisms largely free from government interference. Because of the First Amendment we can place political signs in our yards, display bumper stickers on our cars, and yes, even post our opinions on blog sites. However, the right to free speech is not without some limitations. A well known example is that you are NOT free to falsely shout "fire" in a theater.

The first major qualification is that the First Amendment protects us from governmental, not private, interference with our speech. If the police arrest you for criticism of the mayor, then your First Amendment rights have been violated. However, if your neighbor takes down your yard sign, you might sue him for trespassing, but you can't sue him for a First Amendment violation.



Another qualification is on the "content" of the speech. There are some categories of speech that have such little social value that they do not merit protection of the First Amendment. Examples would be obscenity, terroristic threats (you verbally threaten to harm or kill someone) and fighting words (words that by their very nature tend to incite a riot or breach of peace).

Where the speech takes place is also important. Take for example, the free speech rights of a government employee. Speech that may be protected while you are walking down the street may not be protected when you utter it in the workplace. Generally, private employees do NOT have First Amendment rights on the job. (Hence, a sportscaster can legally be fired for using obscene words on air). Public employees, however, only have First Amendment freedom of speech when their expression touches on matters of important public policy. (i.e.- if a public employee calls into question use of tax payers' dollars.)

So, getting back to the question of how far we can go with our freedom of speech. If you think about it, our actions can make a difference in others lives however small they may be. And unlike the nursery rhyme, words DO sometimes turn into or cause physical violence. For example, is it possible that Hitler's vitriolic speech against Jews led to the Holocaust? And what responsibilities do our leaders have to act and speak in ways that do not lead to harm? If the First Amendment does not protect me from verbally threatening harm to my neighbor down the street, should it protect someone who uses ill-advised, potentially harmful speech in their blogs, speeches or radio talk shows? Can the violent act in Tucson be directly traced back to the words of Sarah Palin, Rush Limbaugh, etc? Of course not! Should we all take a step back and analyze how our speech can affect others? Yes.

DUI AND PRESCRIPTION DRUGS

As prescription drug use becomes more prevalent in our society, I am seeing more frequent DUI prescription drug arrests. If you are on prescription drugs for anxiety or depression, you need to know the law on DUI prescription drugs.



A person is DUI of prescription drugs when they are "rendered incapable of driving safely by the drug."

A DUI prescription drug case is very difficult to prove. Most police officers take only a very basic training in detecting DUIs by prescription drug use. In the typical

case, if the officer suspects DUI because of a traffic violation, but does not smell alcohol or marijuana, then they will first ask you if you are on any medications. They may look to see if your pupils are dilated, your pulse rate is fast, or whether or not your speech is slurred.

Most cops don't know the difference between a central nervous stimulant and depressant, and most will not know that you are taking a prescription drug UNLESS you tell them.

As for the Field Sobriety Evaluations, the police normally will ask you to do the HGN (eye test), Walk and Turn, and One Leg Stand. Remember, these tests are not scientific, they are voluntary, and you should always exercise your right NOT to take them.

So if the officer can't tell by your symptoms whether or what drug you are using, they may arrest you and ask for a blood test. Many times, the blood test will come back with an amount of the drug in your blood, and many times it will come back as "too low to calculate." In either event, the State must still prove beyond a reasonable doubt that the "amount" of drug literally rendered you incapable of driving safely. By using an expert witness such as a toxicologist or pharmacist, many times I am able to show that the amount of drug in your blood would not have impaired driving.

So when I get a DUI prescription drug case, I know that many times my client has a shot of winning.

However, there are some prescriptions that do not allow you to drive AT ALL. Check with your doctor and make sure that the drug and/or dosage WILL NOT AFFECT YOUR driving ability.



Don't forget to check out my newest blog!
<http://www.mrgadui.com/blog>



Info and Podcasts in my blog
defendingdriversrights.com

MRDUI News:

Attention: Parents of Underage Drivers

Watch for my new book:

Steering Clear of Trouble: The Guide to Teen Driving Laws in Georgia

St. Paddy's Day event—It has become a MRGADUI tradition to partner with a local tavern and provide free taxi or limo rides home in an effort to promote safe driving.



Please watch out for our upcoming announcement about where and when this year St. Patrick's Day event will be held.

Atlanta Law Practice dedicated exclusively to aggressive defense of those accused of DUI and serious traffic offenses since 1980.

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