

Thursday, April 12, 2007

### **The legal technicality called the Constitution.**

The Bill of Rights: Far from a technicality. (From the public domain). The phrase is often heard: "S/he won the criminal case on a technicality." However, often the technicality is no technicality at all, but a victory based on the Bill of Rights. Without the Bill of Rights, and without the enforcement of the Bill of Rights, the United States would be a much different and much scarier place. Nevertheless, since many potential jurors probably have winced numerous times about people winning court cases on such "technicalities", I want to know about those views, and I want to help convince people of the necessity of preserving, protecting, and enforcing the Bill of Rights. In addition to the criminal arena -- where many people get angry over defense victories arising from the suppression of unlawfully obtained evidence -- many people also disagree with applying First Amendment protection to adult entertainment. However, seeing that adult entertainment involves expression (whether or not such expression is popular -- and the adult entertainment industry is a multi-billion dollar industry), and that the First Amendment exists to protect expression, then adult entertainment is entitled to First Amendment protection. Recently, a commenter on another blog called our law firm sleazy over our First Amendment defense of adult entertainment: "How is nude dancing considered constitutionally protected speech? Sometimes, I feel so stupid for not understanding this stuff. That's OK, \_\_\_\_\_, not many others understand this either. I guess that shakin' your moneymaker is considered an 'artistic expression'." More info here, from a rather sleazy law firm that specializes in defending clients from the adult industry's lawyers'sheesh . . . <http://www.markskatz.com/kandyland.htm>. To each his (or her) own. Never have I thought the Constitution and the defense of the Constitution could be sleazy. In fact, I worship at the altar of the Constitution. Moreover, I very much agree with the following words of cultural anthropologist Judith Lynne Hanna, who lives the next town from me and whom I know well: "[T]he 20th century placed the fully nude body into 'high art' theater dance and moved exotic dance towards the mainstream." "[N]ude dancing in any kind of performance both reflects and configures a society's attitudes toward the body and its presentation." "Nudity in exotic dance communicates messages of freedom, independence, gender equality, acceptance of the body, modernity, historical tension between how the body was revealed in the past and is revealed now, empowerment, a break with social norms and challenge to the status quo." Having visited many exotic/nude dance clubs since taking on adult entertainment clients (to best understand and represent a client, a lawyer needs to walk in the client's shoes -- I am not exaggerating one bit), my own preconceived notions (from just one visit to such a club before starting adult entertainment defense) of strip clubs as sleazy places heavily populated by depressed and lonely people, a bunch of sexist perverts, or both, with perhaps some clubs still run by mobsters, were substantially altered by meeting many truly decent and often likeable club owners, managers, employees, and dancers, and by the true dance ability of many of the dancers, including many with such limber bodies and skillful dance moves as to show that many such dancers have been well trained beyond a mere focus on nude dancing. It is a shame to think that so many people would try to suppress the First Amendment to prevent people from appearing on stage in the same wardrobe they wore when born. Jon Katz.

Posted by Jon Katz in First Amendment at 01:05