

## ***R.A.V. v. ST. PAUL (1992)***

The Court unanimously held that a St. Paul, MN ordinance that banned cross burnings and other hate crimes violated the Free Speech clause of the First Amendment. Hate or bias crime statutes impose stiffer penalties for a number of crimes when they are motivated by racial, religious or other bias.

The St. Paul law made it a crime to engage in speech or behavior likely to arouse “anger or alarm ... based on racial, ethnic, gender, or religious bias.” The Minnesota Supreme Court upheld the law on the basis that it, in effect, applied only to speech that constituted “fighting words,” which are not protected by the First Amendment. Writing for the majority, Justice Scalia found that even when so limited, the ordinance could not stand because “content-based regulations are presumptively invalid.” The St. Paul law applies only to *racially* motivated fighting words. But it does not regulate fighting words expressing hostility on the basis of political affiliation or union membership, for example. In effect, some categories of fighting words were penalized, while others were not. Scalia said that “the government may not regulate use based on hostility or favoritism towards the underlying message expressed.”

Scalia acknowledged that the city has a compelling interest in protecting groups that have been victims of discrimination, but pointed out that content neutral alternatives exist for achieving that interest.

While the Court was united in its decision, it split sharply in its rationale. Four justices — White, Blackmun, O’Conner and Stevens — concurred in the judgment but disagreed with the reasoning of the majority and would have struck the ordinance down on narrower grounds.