

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Frederick Douglass Foundation, Inc. v. District of Columbia

Frederick Douglass Found. · No. Civil Action No. 20-3346 (JEB) · Decided February 24, 2026

SUMMARY

The District Court for the District of Columbia considers cross-motions for summary judgment on a remaining selective-enforcement claim arising from arrests of anti-abortion protesters who chalked a sidewalk in violation of the District’s anti-defacement ordinance. Plaintiffs allege that the ordinance was selectively enforced against them while not being enforced against racial-justice protesters during the summer of 2020. The court concludes that Plaintiffs have not shown that the proposed comparators were similarly situated in material respects and grants summary judgment to the District.

CASE DETAILS

COURT	United States District Court for the District of Columbia
WRITING FOR THE COURT	James E. Boasberg
JURISDICTION	U.S. District Court for the District of Columbia
DECIDED	February 24, 2026
DOCKET	Civil Action No. 20-3346 (JEB)
DISPOSITION	other
PROCEDURAL POSTURE	Cross-motions for summary judgment on the plaintiffs’ remaining First Amendment selective-enforcement claim after the D.C. Circuit reversed dismissal of that claim and remanded for discovery.
STANDARD OF REVIEW	Summary judgment is proper when there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court views evidence and reasonable inferences in favor of the nonmovant, does not weigh evidence or make credibility determinations, and asks whether a reasonable jury could find for the nonmovant. On the selective-enforcement issue, the court reviews whether any reasonable jury could find plaintiffs similarly situated in material respects to proposed comparators.
PRECEDENTIAL VALUE	Published district-court memorandum opinion; persuasive within the District of Columbia but subject to controlling D.C. Circuit precedent.
PARTIES	Frederick Douglass Foundation, Inc., Students for Life of America, individual plaintiffs v. District of Columbia

TOPICS

summary judgment

civil procedure

first amendment

free speech

municipal law

PRACTICE AREAS

constitutional law

civil rights

First Amendment litigation

municipal law

civil procedure

QUESTIONS PRESENTED

1. Whether plaintiffs established the similarly-situated-comparator element of a First Amendment selective-enforcement claim.
2. Whether any of the three specific racial-justice protests identified by plaintiffs was similarly situated in material respects to plaintiffs' protest so as to support an inference of discriminatory enforcement.
3. Whether summary judgment should be entered for the District on the remaining selective-enforcement claim.

HOLDINGS

1. A First Amendment selective-enforcement claim requires plaintiffs to show that they were similarly situated in material respects to individuals against whom the law was not enforced and that the enforcement infringed a constitutional right. Generalized allegations of uneven enforcement are insufficient; plaintiffs must identify specific comparators or specific examples of differential treatment.
2. A violation requiring later investigation and enforcement is not ordinarily a material comparator to a contemporaneous arrest made by officers who witnessed the violation.
3. None of the three proposed comparator protests was similarly situated in material respects to plaintiffs' protest. The differences in crowd size, police-to-protester ratio, time and location, traffic conditions, public-safety risks, crowd-control concerns, police resources, protest context, and prior warnings were sufficient to defeat the comparator requirement.
4. Summary judgment for the District was appropriate because, viewing the evidence in plaintiffs' favor, no reasonable jury could find that any proposed comparator was similarly situated to plaintiffs' protest.

KEY QUOTATIONS

"Unfortunately for them, the third time is not the charm: even looking at the evidence in the light most favorable to Plaintiffs, they have not shown that any violators were similarly situated to those arrested at their assembly." (p. 1)

"At root, a material factor is one that could justify the "legitimate" exercise of enforcement discretion." (p. 6)

"Here, the Court finds that no reasonable jury could conclude that any of the three protests that Plaintiffs point to was similarly situated to theirs." (p. 24)

FACTUAL BACKGROUND

In July 2020, Students for Life of America and the Frederick Douglass Foundation planned a permitted anti-abortion protest outside a Planned Parenthood facility in Washington, D.C. Their permit authorized signs and other expressive activity but expressly prohibited marking or painting the street, and police separately warned that chalking the sidewalk was an arrestable offense. Two protesters nevertheless began chalking the sidewalk after being warned and were arrested. Plaintiffs alleged that the District had failed to enforce its anti-defacement ordinance against racial-justice protesters during 2020 demonstrations, but the Court found that each proposed comparator involved materially different crowd, safety, traffic, public-order, resource, or warning circumstances.

PROCEDURAL HISTORY

Plaintiffs initially sought a preliminary injunction against enforcement of the District's anti-defacement ordinance. The Court denied preliminary relief, later dismissed all claims, and the D.C. Circuit affirmed dismissal of the other claims but reversed dismissal of the First Amendment selective-enforcement claim, holding that discriminatory purpose was not required and remanding for discovery. After discovery closed, the parties filed cross-motions for summary judgment; the Court granted the District's motion and denied plaintiffs' cross-motion.

DISPOSITION

other

CASES CITED

- *Holcomb v. Powell*, 433 F.3d 889, 895 (D.C. Cir. 2006)
- *Frederick Douglass Found., Inc. v. District of Columbia*, 531 F. Supp. 3d 316 (D.D.C. 2021)
- *Frederick Douglass Found., Inc. v. District of Columbia*, 2021 WL 3912119 (D.D.C. Sept. 1, 2021)
- *Frederick Douglass Found., Inc. v. District of Columbia*, 82 F.4th 1122 (D.C. Cir. 2023)
- *United States v. Dixon*, 486 F. Supp. 2d 40, 45 (D.D.C. 2007)
- *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986)
- *Scott v. Harris*, 550 U.S. 372, 380 (2007)
- *Mastro v. PEPCO*, 447 F.3d 843, 850 (D.C. Cir. 2006)
- *Aka v. Washington Hospital Center*, 156 F.3d 1284, 1288 (D.C. Cir. 1998) (en banc)
- *Czekalski v. Peters*, 475 F.3d 360, 363 (D.C. Cir. 2007)
- *Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986)
- *Laningham v. U.S. Navy*, 813 F.2d 1236, 1242 (D.C. Cir. 1987)
- *Branch Ministries v. Rossotti*, 211 F.3d 137, 144–45 (D.C. Cir. 2000)
- *Att'y Gen. v. Irish People, Inc.*, 684 F.2d 928, 946 (D.C. Cir. 1982)
- *Graham v. Connor*, 490 U.S. 386, 396 (1989)
- *United States v. Judd*, 579 F. Supp. 3d 1, 7–8 (D.D.C. 2021)
- *Fuller v. Salt Lake City*, 775 F. Supp. 3d 1212, 1225 (D. Utah 2025)
- *Steele v. Vought*, 2025 WL 3687598, at *8 (D.D.C. Dec. 19, 2025)

- *George v. Leavitt*, 407 F.3d 405, 414 (D.C. Cir. 2005)
- *United States v. Stone*, 394 F. Supp. 3d 1, 34 (D.D.C. 2019)
- *United States v. Young*, 2024 WL 3030656, at *4 (D.D.C. June 17, 2024)
- *Illinois Republican Party v. Pritzker*, 470 F. Supp. 3d 813, 822 (N.D. Ill. 2020)
- *Richardson v. Didok*, 2020 WL 5602526, at *3 (E.D. Pa. Sept. 17, 2020)
- *Daubenmire v. City of Columbus*, 507 F.3d 383, 390 (6th Cir. 2007)
- *Sheets v. Jimenez*, 2025 WL 807345, at *3 (M.D. Fla. Mar. 13, 2025)
- *Church of Am. Knights of the Ku Klux Klan v. Kerik*, 356 F.3d 197, 210–11 (2d Cir. 2004)
- *Geller v. Cuomo*, 476 F. Supp. 3d 1, 14, 19 (S.D.N.Y. 2020)
- *Wayte v. United States*, 470 U.S. 598, 607, 609–10 (1985)
- *United States v. Hastings*, 126 F.3d 310, 315 (4th Cir. 1997)
- *United States v. Olvis*, 97 F.3d 739, 744 (4th Cir. 1996)
- *Juluke v. Hodel*, 811 F.2d 1553, 1555, 1562 & n.28 (D.C. Cir. 1987)
- *Occupy Nashville v. Haslam*, 949 F. Supp. 2d 777, 804 (M.D. Tenn. 2013), rev'd on other grounds, 769 F.3d 434 (6th Cir. 2014)
- *Figuero v. City of Saratoga Springs*, 2025 WL 460784, at *14 (N.D.N.Y. Feb. 11, 2025)
- *Goodwin v. District of Columbia*, 2025 WL 637467, at *4–5, *17–18 (D.D.C. Feb. 27, 2025)
- *Ferris v. District of Columbia*, 2023 WL 8697854, at *2–3 (D.D.C. Dec. 15, 2023)
- *United States v. Rundo*, 108 F.4th 792, 803 (9th Cir. 2024)