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SPEAKERS

Steve Lehto, Keith Neely, Anthony Sanders

A **Anthony Sanders** 00:16

Can the cops pull you over because your license plate holder partially blocks the name of your state, and are 18-, 19-, and 20-year-olds members of “the people”? We'll discuss all that this week on a special triple crossover episode of Short Circuit, your podcast on the federal courts of appeals. I'm your host, Anthony Sanders, Director of the Center for Judicial Engagement at the Institute for Justice. We're recording this on Monday, July 14, 2025, so although you'll be listening or watching this in the future, happy Bastille Day to you, and may you release all the prisoners of tyranny. Two men who are especially skilled in releasing prisoners of tyranny and many other subjects are with me today. They both have their own YouTube shows, so we have three YouTube shows in one. I'm very excited about this. I will first introduce my colleague, one of our guests, and then we'll get on to our special guest. First, I want to introduce Keith Neely. He has been on Short Circuit many times before. He co-hosts his show with the lovely Kim Norberg, Beyond the Brief, which is an IJ show you should check out if you haven't yet. It's on YouTube. So Keith, welcome back to Short Circuit, and maybe for some of our newer listeners, tell us a little bit about Beyond the Brief.

K **Keith Neely** 01:48

Thanks, Anthony. Yeah, Beyond the Brief is IJ's podcast that tells the stories behind our cases. We get to interview IJ attorneys, sometimes IJ clients, and ask them deeper questions about the cases they're litigating. Whether that's hearing firsthand from someone who was wrongfully raided by the FBI, or learning more about the theories we're trying to push in the Fourth Amendment space, Beyond the Brief is the resource that gives you the inside look—the behind-the-scenes take—on some of the IJ cases you might be following. So if you haven't given us a watch already, make sure to check us out on YouTube and like and subscribe.

A **Anthony Sanders** 02:30

So what’s really going on here at the Institute for justice- that's what you get to hear on Beyond

the Brief. It's on YouTube, but also for our listeners who prefer audio, it's a podcast as well. We also have here today Steve Lehto. Now, Steve has been on Short Circuit before, but that was before we were doing our show on YouTube, so this is his first time joining us with the dual experience of YouTube and audio. Steve is a Michigan legend. He has Lehto's Law, which posts new episodes every day on all kinds of legal subjects. He is also a consumer protection attorney and a prolific author—he's written all kinds of books about Michigan history, cars, law, and even murder mysteries. He is a great friend of IJ because he has talked about our cases many times on his show, and we are delighted to have him back on Short Circuit. He's going to talk about this case from the Kansas Supreme Court about license plates and how license plate holders can block information on your plate. But first, for our listeners who may not have seen or heard of Lehto's Law before—Steve, tell us a little about your show and what else you're up to.

S Steve Lehto 03:58

Before I went to law school, I was in radio. I was actually a disc jockey, and when I got out of law school, I missed being on the radio, but being a disc jockey wasn't going to fulfill my intellectual appetite, so I started doing podcasts and also calling into radio talk shows. I did a talk show in Flint and one in Detroit. But the weird thing is that nowadays, local radio is kind of dead, so I started doing a podcast. The podcast started doing pretty well, and somewhere along the line, someone said, "You should videotape that and put it on YouTube." And yeah, somebody actually said "videotape." They didn't say "film." I thought, why would you want to see some guy talking on YouTube? It turns out everybody does. So I started putting them on YouTube and discovered the audience there is about 1,000 times larger. My audio podcasts are still out there—you can listen to me on iTunes or Spotify or whatever—but most of my audience finds me on YouTube. I started out doing just consumer law, because we are all consumers, and somewhere along the line, I began talking about civil rights issues, constitutional law, and driving issues. As an attorney, I represented a lot of people who got traffic tickets, and I realized not only are we all consumers, but we're also citizens of the United States. So it's a broader topic to speak to—stuff that applies to everyone. Don't get me wrong, you're going to buy something sometime this week, right? But you also have civil rights and constitutional rights that you have all the time, and it's actually more important to talk about those things too. So I cover things in the news that are legal in nature, and quite often it's constitutional rights.

A Anthony Sanders 05:33

And great. We're going to get to one of those cases in a moment. But first, I have a question that I've been asking around IJ the last few days. This is an episode with three people who have their own shows- so it's a triple crossover episode. Can you think of an example of a triple crossover in in TV history?

S Steve Lehto 05:57

A real one or, can I imagine one?

A Anthony Sanders 05:59

Oh well. I mean, we could spend a whole episode on our dream crossover shows

S Steve Lehto 06:06

Couldn't we have the Simpsons go on to friends and work with Seinfeld about something?

A Anthony Sanders 06:11

Basically, there's the Seinfeld–Friends crossover where Kramer went on—no, sorry, it was Mad About You. That was a crossover. But the one nominated by our friend Michael Bindaas, who was on a few weeks ago, was an episode of Happy Days where they had a Laverne and Shirley crossover, which they did a lot. But then Mork was on there too.

S Steve Lehto 06:34

But that was more of a spin off thing, though.

A Anthony Sanders 06:38

That was my point was that he didn't actually have his own show yet, and then Mork and Mindy spun off the next season. So I said, is that really a crossover? I don't think Michael appreciated my response, but anyway, that was the one we thought of. There are some other ones, but they're more within franchises, like all the Law and Order shows. So in any case, we're going to say this is the real triple crossover, and that brings us to Kansas.

S Steve Lehto 07:06

Yeah, so interestingly, if you've ever had an interaction with the police while you're driving—and some of us have—I've been driving a long time, so I've encountered the police occasionally, and also representing a lot of clients who've been pulled over, I've discovered that sometimes the police really want to pull you over. They want to go out and pull you over the way a fisherman wants to catch fish. But there are rules about when the police can and cannot pull you over. We always hear stories about somebody getting pulled over for some minor infraction, and then the police found 19 metric tons of cocaine in their glove box or something. And you wonder, that weird little thing led to this? Who'd have thought? Then you hear stories about people pulled over for the most de minimis things, and when they go to court, they argue the whole stop is bad because it was initiated by something that wasn't actually a violation. This case is one of the best examples of that I've ever seen. It's Kansas v. Beck, a Kansas Supreme Court case. In it, a guy was driving along, and a police officer pulled up behind him and noticed that he had a license plate frame covering part of the state name. The plate was from Illinois. The fascinating part is that as the cop was pulling the guy over, he radioed in the plate—he knew it was from Illinois. He just said he couldn't read the bottom half of the name of the state, but the top half was more than enough for him to understand. Believe it or not, a trial court and a court of appeals denied the man's motion to suppress, saying the

plate was obscured and case law says you cannot obscure or obstruct a license plate. The Kansas Supreme Court, in a rebuke of both the lower courts and the federal courts, because the federal court in Kansas had likewise misinterpreted the statute, started its opinion with: “When a statute is plain and unambiguous, appellate courts should refrain from reading something into the statute that is not readily found in its words.” That’s the first sentence. I remember reading confusing cases in law school, three pages in and wondering when they’d get to the meat. Boom, here you go. Number two, Kansas does not require the display of the state name on license plates issued by the state, except on registration decals. The statute says the plate must be mounted a certain way, not wobbly, at a certain height off the ground. But the only time the name of the state must be visible is on the renewal sticker, and that has to be legible. Number three, a law enforcement officer does not have reasonable suspicion that a violation of Kansas statutes is occurring when the officer has difficulty reading or is unable to read the state name on a license plate. It’s so simple, but they point out that license plate frames are extremely common. If you could pull someone over simply because they had a frame blocking part of the plate, almost everyone could be stopped. On my set, I’ve got a bunch of plates. You can’t see them from this angle, but you can on my show. Several are real plates, and I actually have an In-N-Out Burger license plate frame around one of them. The burger frame obscures the bottom, where it says michigan.

A Anthony Sanders 10:43

Wait you have an In N Out Burger over a Michigan plate?

S Steve Lehto 10:48

Yes

A Anthony Sanders 10:49

I'm betting there are no In N Out burgers in Michigan.

S Steve Lehto 10:51

There are not. But I'm trying to get the word out.

A Anthony Sanders 10:54

I have been working on Minnesota for many years, but it hasn't happened.

S Steve Lehto 10:57

And so it covers up a portion of the plate, but you can still read the letters and numbers, which is the important part, and you can still read the sticker. The court clearly said that if this were enough to justify a stop, many drivers would be unwittingly violating state law and subjecting

themselves to stops and seizures by law enforcement. What really sank the case here is that Beck was committing no driving infractions, except that arguably his license plate was partially obstructed by the frame. But as we already noted, the officer called it in and knew it was an Illinois plate. So it's like, dude, you just shot your own case down before you even talked to the guy in the car. Now, he did point out that when he approached the car, Beck appeared extremely nervous, which is about as subjective as it gets. Beck also said he was driving from Springfield, Illinois, to Oak Grove, Missouri, but got lost, which, if true, meant he had actually overshot his destination by quite a bit. So there was an issue there. Based on the odd statement about his destination and his nervous behavior, the cop called in a canine unit, and that's when they found the two pounds of methamphetamine.

A Anthony Sanders 12:12

And he actually agreed to the search too, right?

S Steve Lehto 12:15

Yes, he did, but then later on he tried jumping in the car and driving away, so the police got a change of heart there. I always try to explain to people that if my clients had consulted me before they did stupid things, we wouldn't be in court—but they never do. So they charged him with possession, possession without a drug tax stamp—because if there are taxes involved, they'll get you—and also interference with law enforcement for trying to get away. But then he went to court and said, hey, they lacked reasonable suspicion to stop me. What was I doing or about to do that the officer could see was illegal? Well, I covered up half of the word "Illinois." And the court goes to pains, in about ten pages, to explain why that doesn't work. I try to tell non-lawyers that a ten-page Supreme Court opinion is a gift, especially when it's clear. The court said: if you read the statute, it requires the plate be attached to the rear of the vehicle, displayed during the current year, mounted at least a certain height, fastened to be clearly visible, and free from foreign materials, in a condition to be clearly legible. "Clearly legible" means you can read it. Violating the statute is a misdemeanor, so it's not just a minor infraction—it's a crime. But the appellate court and trial court both said this guy violated the statute because half of "Illinois" was covered. That's not what the statute says. Interestingly, a federal court in Kansas had misinterpreted the same law, saying the plate must be legible to an officer following at a "reasonably safe distance." Those words aren't in the statute. The Kansas Supreme Court said that qualification was simply invented and shot it down: the statute says what it says, and if you want it to say something else, you go to the legislature, not the police. I try to explain to people: if you don't like the law, don't blame me, I'm the lawyer—the messenger. And a police officer who doesn't like the law can't just arrest someone because part of a word was covered. The court clearly held that the state name is not part of the information required to be easily read. The only requirement is that the identifiers and the state and year are visible somewhere on the plate, not how many times or in how many places. That's it. Unfortunately for the police, they had to let one get away. But that's what happens when you pull somebody over wrongfully. I did a video on this, and a bunch of people sent me cases from their own states. Massachusetts has one about a license plate cover. A driver had a clear cover—you could read the plate through it—and the officer admitted he could read it. The judge said, okay, then why are we here? If it's not obscuring, it's not violating the statute. Sometimes statutes are vague. People get pulled over for hanging things from the rearview mirror. Officers claim their vision is obstructed, but we've all seen fuzzy dice, tassels, air

fresheners. Is that really obstructing vision? More often than not, it’s just an excuse to hassle someone, not a real crime. The Kansas court said: here’s the law as written. If you don’t like it, take it up with the legislature. The Court of Appeals is reversed, the trial court is reversed, and it’s sent back down for further proceedings. I think it’s a good case. And again, if you don’t like the result, go talk to your legislator—assuming you’re in Kansas—because they’re the ones who passed the law and can change it.

A Anthony Sanders 17:39

Keith, have you ever been pulled over for a fuzzy license plate holder or something like that?

K Keith Neely 17:45

No, no, I've been pulled over for other things, typically exceeding the the posted speed, but, but never for an obscured license plate?

A Anthony Sanders 17:54

Yeah, this is actually a law I hadn’t heard of until a few years ago, but it’s fairly common—some kind of statute about obstruction of your license plate. I was reminded, as I mentioned in the email preparing for the show, of a case from New Jersey a few years back that I wrote a blog post about, where the court had a similar law and opened its opinion by saying that if the statute were read literally, then if you walked into a parking lot outside a shopping center, the majority of the cars would be in violation—so basically half of New Jersey or more would be in violation. That law said you couldn’t obstruct any words, not just “New Jersey” but also “Garden State” or whatever else was on the plate, and the court said that just couldn’t be what the legislature intended. I can’t remember the exact wording of that statute, but the court recognized that reading it that way went too far. This one, as you said, Steve, the lower courts really had to stretch to make it apply, and I’m sure that was because these were similar cases where the defendant had done something obviously illegal, like transporting a lot of meth, so they went out of their way to interpret the law broadly so the bad man wouldn’t get out. Another interesting piece is that some of these cases were federal, and you might wonder what a traffic ticket case is doing in federal court, but of course they found enough drugs in those cases to hand them over to the local federal prosecutor and make a federal case out of it.

S Steve Lehto 19:45

And there was no tax stamp. I think it's amazing, because so many of these license plate frames are installed by dealers so you buy a brand new vehicle and they put a plate on it which makes the car illegal, and you pull out of the parking lot, you're already breaking the law. You're committing a misdemeanor. And obviously it can't be that way, but, but if they rewrote the statute and said "From now on it's got to be you can't cover anything," then the dealerships are gonna have to change their license plate frames or something, because they can't be sending all these people out breaking the law the second they drive off the lot.

A Anthony Sanders 20:20

Yeah, yeah. And, to Steve's point, what I found refreshing about the opinion is the fact that it's one of the rare times where you see, "if you don't like it, change the law" applied against the government. Most of the time you hear that applied against the potential perpetrator. And in this case, the court applied that even handedly against the government.

S Steve Lehto 20:41

What I also like is that they start with the sentence, “When a statute is plain and unambiguous,” and then go on to explain the plain-meaning statutory construction rule. As an attorney, especially one with a YouTube channel where I interact with a lot of people, one of the most common questions I’m asked is, “What makes judges think they have the right to rewrite laws?” I have to explain that, on the one hand, here the lower courts were clearly trying to rewrite the law—they inserted new language into what they thought the law should mean. But not all statutes are so plain and unambiguous that they never require interpretation; sometimes they do because the language is unclear. I like the Supreme Court actually chastising the lower courts, saying, “Look, this one’s plain and unambiguous—what are you doing?” Remember, there’s a hierarchy: the Supreme Court is in charge of all the inferior courts, and here they were giving a lecture, saying, “Read the statute, and if it’s clear, stop and just apply it.”

A Anthony Sanders 21:47

As we know, legislators are not models of drafting without ambiguity, and so often they do draft laws you can't really understand, but in this case, seemed pretty plain.

S Steve Lehto 21:59

Yeah, yeah.

A Anthony Sanders 22:01

Well, we’ll get to Keith’s case in a moment, but first, for any new viewers or listeners because of Steve, just to briefly explain Short Circuit: we do this every week or every other week on YouTube, discussing a few recent appellate decisions, usually from the federal courts of appeals, sometimes from state supreme courts like we just did, and we break them down to see what’s going on in the federal appellate courts. Everyone else talks about the Supreme Court and the big fancy cases, but we focus on the courts of appeals, which means sometimes we go to the Fourth Circuit, which brings us to an issue we’ve covered a lot in the last few years: the Second Amendment and firearm regulation. Recently, we did an episode on California’s ban on buying more than one gun per month, which even the Ninth Circuit found unconstitutional, but now the Fourth Circuit is addressing a federal law, though some states have similar ones. Keith will give the definitive answer here.

K Keith Neely 23:36

This is McCoy v. BATF, and I was drawn to it because, like many people, my gateway to the law was American history, which is how I became fascinated with this area, and I expected a heavyweight historical analysis in the opinion. What surprised me was where the majority began its historical discussion. Before walking through the Bruen framework, it’s important to understand the law at issue: 18 U.S.C. § 922(b)(1) prohibits the sale of handguns to individuals under 21. The plaintiffs are a class of 18- to 20-year-olds who wish to purchase a handgun but were barred from doing so by this law. They sued in district court, the judge agreed with them, enjoined the law, and then certified a nationwide class. While the nationwide class aspect is not central to the opinion, it is noted here because the issue comes up a little in the aftermath of the Supreme Court’s recent decisions. The central question, though, is whether this statute violates the Second Amendment. What is unusual is where the majority starts its historical analysis: rather than looking for direct analogs in 18th-century firearm regulations, Judge Wilkinson, writing for the majority, begins with 18th-century contract law, specifically the doctrine of infancy, which held that minors could void contracts at their discretion, and at the founding, the age of majority was generally 21. Judge Wilkinson explains that purchasing firearms at the time typically required credit because cash transactions were uncommon, so the doctrine of infancy would have discouraged merchants from selling firearms to minors. Therefore, under his reasoning, if minors faced historical economic and legal barriers to purchasing firearms, the modern restriction on commercial sales to under-21s is consistent with historical practice. The majority also discusses the Militia Act of 1792, which allowed minors age 18 to serve in militias and required them to provide themselves with firearms, but the court distinguishes providing from purchasing, noting minors could have obtained firearms through family or other means, so this does not undermine their analysis. Another key point is that handguns did not become common in the U.S. until the mid-19th century, and at that time, many states enacted similar laws restricting handgun sales to minors, which courts largely upheld. The majority uses the doctrine of infancy and contract law as a historical analog to justify the law, as Bruen requires courts to identify historical analogs for modern regulations, and backs into affirming the statute’s constitutionality. And the dissent takes them to task for it. The dissent, I think, makes a compelling argument that there is a difference between a regulation prohibiting the sale and regulations that might make it hard for other reasons, for a minor to purchase a firearm, because that's really what the doctrine of infancy is doing here at the founding. It wasn't an express prohibition on a minor's right to purchase a firearm. It was a sort of indirect burden on their right to purchase a firearm.

A Anthony Sanders 29:41

It was nothing to do of health and safety. It was about the general way that they engage in the economy

S Steve Lehto 29:48

Exactly, and the dissent points out that the Militia Act is more significant than the majority lets on: in most colonies and early states, militias were formed by 18-year-olds who were allowed to possess firearms, and undoubtedly some purchased those firearms themselves, which undercuts the majority’s argument that the federal statute is constitutional. There’s a back-and-forth here depending on how granular you think historical analysis should be, so you have

two very different takes. Then there’s a concurrence by Judge Heytens, which I love because it’s radically pragmatic and partly because he was my Civ Pro professor in law school, so I have a slight bias in thinking he has good ideas.

A Anthony Sanders 30:52

Well you must have gotten a pretty good grade too it sounds like.

K Keith Neely 30:53

No comment- but he did give me a good grade, thankfully. His two-page concurrence sets history aside and focuses on a practical point: there’s no limiting principle to the minors’ argument. If you accept that 18-year-olds have a constitutionally protected right to purchase a handgun, and you consider that 15- or 16-year-olds served in militias, are we saying they also have a right to purchase a commercial handgun? Judge Heytens says that’s inherently unreasonable. So even though he agrees with Judge Wilkinson’s historical analysis, he emphasizes that the real issue is preventing a world in which high school juniors and sophomores have a constitutionally protected right to buy a firearm. The dissent predictably calls this policy-making, reflecting many of the conversations we’ve had through CJE. It’s a fascinating back-and-forth: two very different historical interpretations, and a concurrence that essentially says, history aside, this seems reasonable, so he sides with Wilkinson.

S Steve Lehto 30:55

Let me ask you a question. Did anybody address the idea that if this law is good and says that the people below 21 can't buy a handgun commercially, could they then extend the law so they can't buy any guns at all. In other words, is that distinction regarding the majority-minority is that really something that applies only to hand guns?

K Keith Neely 31:47

So they don't explicitly state it in those terms. They do make great efforts in the majority opinion to point out that this law is fairly limited because we're talking only about handguns, so it doesn't regulate the purchase of long rifles. It doesn't regulate the purchase of hunting rifles. It's talking only about the purchase of those weapons. So it says nothing about whether a minor may possess a handgun legally, and specifically, we're only talking about the commercial purchase of a weapon. So those factors didn't play heavily into the court's analysis, at least not explicitly. But the fact that they take great pains at the start of the opinion to emphasize how narrow this law is makes me think that a different sort of case, a broader regulation, might suffer a very different court decision.

S Steve Lehto 33:35

And only because I'm an attorney, I think I am paranoid and a lot of people are going to say, "Well, if you let them get away with this, they'll push it a little further and next thing you know that is people under the age of 45 can't own slingshots." You know, that is the argument that

that is people under the age of 45 can't own slingshots." You know, that is the argument that people are throwing at me all the time. And there's a slippery slope there, potentially. That's why I was wondering if they addressed that or not.

K Keith Neely 33:56

Yeah, I mean, it's funny—you're right, the slippery slope cuts both ways. Arguably, Judge Heytens is correct: if you go below 18, where's the dividing line? If you go above 18, where's the dividing line there? And I think the dissent makes a really good point that the age of majority has changed over time, and that seems like a reasonable place to set this number. By and large, in society today, the age of majority is 18; that's when you first obtain the right to vote, which aligns with other age-related milestones we've agreed upon, though, of course, a counterpoint is the drinking age at 21, so there's still some back-and-forth. Overall, I think the dissent is right that 18 seems like a reasonable line.

A Anthony Sanders 34:56

So, Steve, I know you're a student of history and have actually written history, unlike perhaps many litigators or opinion writers on these issues today, so with all the buzz about Second Amendment history and tradition since the Bruen case came out, I'd love your more general thoughts on how courts are getting so involved in the minutiae of history, picking and choosing whatever supports their side of the debate in the Second Amendment space.

S Steve Lehto 35:37

I was actually surprised when I first read Bruen because the amount of history they dug into seemed far more extensive than in a typical case. The Supreme Court does occasionally go back like that—they have clerks who can research extensively, and they'll find all kinds of obscure details, like someone speaking during debates in Connecticut preceding the Articles of Confederation, and you wonder, where'd they find that? But my biggest concern comes back to the principle from my original case: when a statute is plain and unambiguous, that meaning can erode over hundreds of years. You can take a six-word phrase from the Bill of Rights and debate what it meant 250 years ago, 100 years ago, or what it means now. I'll concede that some things that were once plain and unambiguous may no longer be, and even if they are, arguments can be made without losing credibility. Unfortunately, a lot of what reaches the Supreme Court now isn't just about the parties or the statute's original meaning; they're broader policy issues. For example, fifty years of Roe v. Wade, then the Court comes along and says it was bad law and overturns it—you read the opinion and sure, there's plenty to critique, but that's how it is. So there are no bright-line correct answers in many cases; it often depends on a combination of factors, including the current makeup of the Court. My main criticism of any Court makeup is when rulings swing drastically from one side to the other on the same issue, often because two, three, or four justices were replaced in a short period. I always thought life tenure for justices provided stability, insulating them from election-driven swings. My concern with these high-level rulings isn't necessarily whether they're right or wrong, but understanding the direction things are going. Usually, the "correct" answer is somewhere in the opinions, so you can't definitively call it right or wrong—at least, that's my view.

K Keith Neely 38:41

Yeah, well, and Steve, to that point, I mean this, the dissent touches on this a little bit and a footnote, but quotes justice Barrett statement in Rahimi that when you're looking for these historical analogs, you have to keep in mind, of course, that not every state legislature at the time was looking to exercise its powers to the fullest extent. So even when you're trying to look for these historical analogs, they may not at all reflect the boundaries of state or federal power. And the dissent kind of very candidly says this makes perfect sense to me. That said I don't know what to do with this, because it means that there isn't this solid right answer, and we're all fighting over these historical ambiguities when you know, at a certain point you're not going to find the the perfect, absolute, correct historical interpretation, even if you have kind of the full access to the historical records that the judges in the Fourth Circuit and their clerks certainly do.

S Steve Lehto 39:39

And one thing I'd like to point out too, very briefly, though, whenever you have an opinion like Bruen, you actually will have people writing with the certainty, though, that this is right. This is exactly what was intended. And I do kind of wish they'd back off on that just a little bit and go, Well, we can kind of see the arguments both sides, but we think it's here. And instead, they're like, no we found this one case where some guy was talking in Connecticut back in 1743, and he said this.

A Anthony Sanders 40:06

And conversely, and from what Keith was just saying there- we've talked about this on the show too- that just because something was a law at the time a constitution was adopted does not mean that law is constitutional, right? The paradigmatic cases the 14th Amendment. 14th Amendment was supposed to make all kinds of laws unconstitutional. I don't think you necessarily need to say the same about the Bill of Rights. It was a special situation because the federal government was new, so barely had any laws anyway, and so it was kind of part of the original Constitution, in a way. But, if they had outlawed certain things in certain states at that time it doesn't mean it was all okay under that constitution. After all, we just had a revolution, right? It's all part of that same revolution. So you can make arguments both ways, right? And so at the end of the day, I guess, presumption of liberty, that's what we always say at IJ.

S Steve Lehto 41:05

I like to think about the fact that that we're talking about the Constitution and the Constitution was drafted a couple 100 years ago. And we're talking, in my case, about the license plate on a car on a highway. And back then, of course, they're walking around- and you're rich, you might have a horse- but you didn't have a license plate on your horse. And so some of this stuff would be so foreign if you could actually go back and talk to some of the founders- and say, by the way, people will be arguing about whether or not you need to fully display the license plate on your automobile on a public highway. They would be like, the what on the what. But it all, it makes sense. It all evolves that way. You know?

A Anthony Sanders 41:43

Yeah, you've got to analyze—history always changes, and older laws always have to be applied to a new world. For example, a statute like the Civil Rights Act of 1871 requires interpretation in today's context, and that's just how the law works. One thing I want to point out before we wrap up on the Fourth Circuit case, which was written by Judge Wilkinson: we've critiqued him on Short Circuit before because he's quite the judicial restraint kind of judge. But if you want an example of judicial restraint—something we generally think of differently in terms of judicial engagement at the Institute for Justice—near the end of his opinion he shows basic respect for traditional democratic authority, which is a modest ask that usually means he sides with the government. I just wanted to highlight that. Thank you all for coming on—this has been great. For new listeners or fans of Latos Law, you can check out Keith Neely's Beyond the Brief, other episodes of Short Circuit, and we also have a newsletter if you want the latest from the federal courts of appeals in your inbox every Friday. You can sign up at shortcircuit.org or through IJ, and in the meantime, be sure to follow Short Circuit on YouTube, Apple Podcasts, Spotify, and all other platforms, and remember to get engaged.