

13-193 SUSAN B. ANTHONY LIST V. DRIEHAUS

DECISION BELOW: 525 Fed.Appx.415

LOWER COURT CASE NUMBER: 11-3894, 11-3925

QUESTION PRESENTED:

I. To challenge a speech-suppressive law, must a party whose speech is arguably proscribed prove that authorities would *certainly* and *successfully* prosecute him, as the Sixth Circuit holds, or should the court presume that a credible threat of prosecution exists absent desuetude or a firm commitment by prosecutors not to enforce the law, as seven other Circuits hold?

II. Did the Sixth Circuit err by holding, in direct conflict with the Eighth Circuit, that state laws proscribing "false" political speech are not subject to pre-enforcement First Amendment review so long as the speaker maintains that its speech is true, even if others who enforce the law manifestly disagree?

CERT. GRANTED 1/10/2014