

Another Enemy of the People? University Professor on the No Fly Homeland Security List

By [Mark Graber](#)

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I am posting the below with the permission of Professor Walter F. Murphy, emeritus of Princeton University. For those who do not know, Professor Murphy is easily the most distinguished scholar of public law in political science. His works on both constitutional theory and judicial behavior are classics in the field. Bluntly, legal scholarship that does not engage many themes in his book, briefly noted below, *Constitutional Democracy*, may be legal, but cannot be said to be scholarship. As interesting, for present purposes, readers of the book will discover that Murphy is hardly a conventional political or legal liberal. While he holds some opinions, most notably on welfare, similar to opinions held on the political left, he is a sharp critic of *ROE V. WADE*, and supported the Alito nomination. Apparently these credentials and others noted below are no longer sufficient to prevent one from becoming an enemy of the people.

"On 1 March 07, I was scheduled to fly on American Airlines to Newark, NJ, to attend an academic conference at Princeton University, designed to focus on my latest scholarly book, *Constitutional Democracy*, published by Johns Hopkins University Press this past Thanksgiving."

"When I tried to use the curbside check in at the Sunport, I was denied a boarding pass because I was on the Terrorist Watch list. I was instructed to go inside and talk to a clerk. At this point, I should note that I am not only the McCormick Professor of Jurisprudence (emeritus) but also a retired Marine colonel. I fought in the Korean War as a young lieutenant, was wounded, and decorated for heroism. I remained a professional soldier for more than five years and then accepted a commission as a reserve officer, serving for an additional 19 years."

"I presented my credentials from the Marine Corps to a very polite clerk for American Airlines. One of the two people to whom I talked asked a question and offered a frightening comment: "Have you been in any peace marches? We ban a lot of people from flying because of that." I explained that I had not so marched but had, in September, 2006, given a lecture at Princeton, televised and put on the Web, highly critical of George Bush for his many violations of the Constitution. "That'll do it," the man said. "

"After carefully examining my credentials, the clerk asked if he could take them to TSA officials. I agreed. He returned about ten minutes later and said I could have a boarding pass, but added: "I must warn you, they're going to ransack your luggage." On my return flight, I had no problem with obtaining a boarding pass, but my luggage was "lost." Airlines do lose a lot of luggage and this "loss" could have been a mere coincidence. In light of

previous events, however, I'm a tad skeptical."

"I confess to having been furious that any American citizen would be singled out for governmental harassment because he or she criticized any elected official, Democrat or Republican. That harassment is, in and of itself, a flagrant violation not only of the First Amendment but also of our entire scheme of constitutional government. This effort to punish a critic states my lecture's argument far more eloquently and forcefully than I ever could. Further, that an administration headed by two men who had "had other priorities" than to risk their own lives when their turn to fight for their country came up, should brand as a threat to the United States a person who did not run away but stood up and fought for his country and was wounded in battle, goes beyond the outrageous. Although less lethal, it is of the same evil ilk as punishing Ambassador Joseph Wilson for criticizing Bush's false claims by "outing" his wife, Valerie Plame, thereby putting at risk her life as well as the lives of many people with whom she had had contact as an agent of the CIA. ..."

"I have a personal stake here, but so do all Americans who take their political system seriously. Thus I hope you and your colleagues will take some positive action to bring the Administration's conduct to the attention of a far larger, and more influential, audience than I could hope to reach. "

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