

# 'The Situation with Tucker Carlson' for Feb. 2nd

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Updated: 11:45 a.m. ET Feb. 3, 2006

Guests: Marcus Hill, Cole Thaler, Will Black, Heidi Raykiel, Max Kellerman, Richard Simmons

MICHAEL SMERCONISH, HOST, "SCARBOROUGH COUNTRY": Thank you for this privilege, Joe Scarborough. The situation with Tucker Carlson starts now. What's the situation tonight?

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TUCKER CARLSON, HOST: It's nice to see you. Thanks a lot.

[Story continues below ↓](#)

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SMERCONISH: Thank you.

CARLSON: Thanks to you at home for tuning in tonight. We appreciate it, as always.

Tonight an interview with the head of the group Stop Her Now. That's a grassroots effort to prevent Hillary Clinton from becoming president in '08. But can the former first lady be stopped? Or like an

evil superhero, does attacking her just make her stronger?

Also, a speech last night in North Carolina. Julian Bond compared Republicans to Nazis. That else did he say that led one black family to walk out in protest?

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Plus, are you prepared to hear confessions from a naughty mommy? Author Heidi Raykeil stops by in just a few minutes to tell us how she got her sexual groove back after becoming a mother.

We begin tonight with an outrageous story out of North Carolina.

Just yesterday, a judge there throw out the roadside breathalyzer test results of an obviously drunk Spanish speaker, saying that the officers had a duty to give him his rights in Spanish. That decision is just the latest in a string of judgments that have dismissed breathalyzer results due to the language barrier.

Marcus Hill is a lawyer who's represented non-English speaking defendants against DUI charges. He joins us live tonight from Raleigh, North Carolina.

Mr. Hill, thanks a lot for joining us.

MARCUS HILL, ATTORNEY: You're welcome.

CARLSON: The message here seems to be if you don't learn—bother to learn our language, you don't have to obey our laws.

HILL: I wouldn't say that's the message. I'd say the message is that everybody has rights, and they need to be protected.

CARLSON: OK. But what about the rights of the rest of us to drive on a road unthreatened by drunk drivers, who kill thousands each year?

HILL: Well, drunk drivers are a great menace, but that doesn't mean that we should end the protections and rights that our Constitution provides us.

CARLSON: How does someone who is loaded behind the wheel, driving erratically and is pulled over for that reason, have a right to get off because he doesn't speak English? That's insane. I'm trying to treat this respectfully, and I am approaching you with respect, but that—that's crazy.

HILL: Well, in fact, he didn't get off. In fact, he got convicted. And in fact, it wasn't the roadside breath test; it was the in-house breath test, called the Intoxilyzer device. And the judge ruled that he wasn't properly read his rights. That's often true, even with English speakers.

CARLSON: But the roadside breathalyzer test, which, as I understand it, was administered properly. No one's contesting that. That the test results were accurate from that roadside test. That was thrown out because the guy doesn't speak English and the officer doesn't speak Spanish.

Why do police officers have an obligation to speak the same language as the people they pull over?

HILL: They do not. They do have an obligation to provide the rights to the person in a forum in which he can understand, as long as that's a reasonable obligation. There's a Spanish translation in the magistrate's office in Durham. And all they have to do is hand the paper to the defendant, and they've complied with their obligation.

CARLSON: What if the person doesn't speak Spanish, though? I mean, there are literally thousands of languages around the world. Why is the onus on American police officers, who speak English, and should speak English? Why is the onus on them to communicate with someone who, again, hasn't bothered to learn the language of the United States?

HILL: Well, the requirement of the statute is just to provide the person their rights. It's not required by

statute that you provide it in any language but English. But judges have on occasion ruled that you're required, if it's possible and easily feasible, to provide it in a format in which the defendant can understand it, which seems very fair, as long as that's feasible. We're not saying you have to provide Mandarin Chinese or some exotic language; we're talking about Spanish, which is spoken by a goodly portion of the residents of Durham.

CARLSON: But the principle is exactly the same, as you know. And so, you know, standards that rely on terms like "reasonable" or "easily accessible." I mean, those really are slippery slopes. And you're not the judge, and I'm not attacking you for that, because it's not your fault. But you are taking advantage of it, it seems to me.

Doesn't this give drunk drivers an incentive to pretend not to speak English? Of course it does.

HILL: Well, there are people who are said to pretend not to speak English. A lot of the Spanish speakers in my practice speak some English, understand some English, but it's very limited. And a rights form is very complicated document that even a well-educated man might have trouble understanding.

CARLSON: Yes. I wonder, really, what there is to understand. You drive in such a way that a police officer believes you may be loaded and therefore a danger to everyone else driving. He brings out a device and says, "Blow in this." That's almost the international language of DUI. Everybody gets that. What is there to not understand, exactly?

HILL: Well, for instance, in North Carolina, you have the right to call a witness or an attorney and you have only 30 minutes to have them there. That's an important right. And if you waive that right, you don't have to wait that 30 minutes. That's an important right.

You have the right to refuse. That's an important right that you have under our Constitution and our law, that you must be informed of before you're required to take the test.

CARLSON: Don't you think that making exceptions for people who don't speak English and, in fact, throwing out the results of a perfectly valid test simply because, again, the person doesn't speak English, doesn't that provide a disincentive to people learning English? We want people who come to this country—I'm not even asking you whether these people are legal or illegal aliens, because I'm trying not to demagogue this too much. But doesn't it provide a disincentive to people who move here to learn the language, the common language that we share?

HILL: Well, I don't think it provides a disincentive. I think there's many great incentives to learn English. I think there's difficulties with that with the Hispanic population. But we're not talking about whether we're letting people speak Spanish or English. We're talking about providing people a statement of their rights, which is required by North Carolina statute, in a form that they could conceivably understand.

CARLSON: Yes. I think they could conceivably learn English. Just my view. Mr. Hill, thanks a lot for joining us.

HILL: Thank you.

CARLSON: It looks like non-English speaking drunks aren't the only ones getting a break these days. Thanks to yet another judge, transsexual prisoners in Wisconsin will continue to get expensive, gender changing hormone therapy, despite a new state law barring the use of taxpayer money for inmate sex changes.

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Here to defend the right of prisoners to use your money for sex changes, Cole Thaler. He's a lawyer with the Lambda Legal Defense and Education Fund. He joins us live tonight from Atlanta.

Mr. Thaler, thanks for coming on.

COLE THALER, LAWYER, LAMBDA LEGAL DEFENSE AND EDUCATION FUND: Thanks for having me, Tucker.