



SUPREME COURT RULES TO ALLOW CENSORSHIP IN HIGH SCHOOLS

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While stating that student speech should be protected, the Supreme Court ruled 5-4 to limit those rights after a high-school senior was suspended for displaying a sign with a drug reference at a school-sponsored activity.

In January 2002, 18-year-old Joseph Frederick of Juneau, Alaska was suspended for showing a 14-foot banner that read "Bong Hits 4 Jesus" at an off-campus school activity. The principal, Deborah Morse, said she could not allow him to promote the use of marijuana.

"I wasn't trying to say anything about drugs," Frederick told the Washington Post. "I was just trying to say something. I wanted to use my free speech, and I did it."

Morse said that if she hadn't taken down the banner it would have been "inconsistent with the district's responsibility to teach students the boundaries of socially appropriate behavior."

What started as a joke became a serious battle for clarification on the First Amendment rights of students.

The First Amendment and students

Although students have the right to say what they want, schools have the authority to limit student speech that is disruptive to other students or teachers.

Speech, as defined in legal terminology, is an actual verbal statement, a student newspaper, or in this case, a banner with writing. Or it can be symbolic, like a piece of clothing, or participation in a protest.

Notable exceptions to the right to free speech include language or behavior that is obscene, or that is intended to provoke violence, or that presents clear and present danger, like yelling "Fire!" in a crowded theater.

Frederick said Morse crossed the line. "Schools use 'zero tolerance' policies to cloak their abuse of authority and disregard for student rights," he said.

The first court ruled against Frederick, but the student, with the help of the American Civil Liberties Union, appealed the case and won. The appeals court said "the phrase 'Bong Hits 4

Jesus' may be funny, stupid, or insulting, depending on one's point of view, but it is not 'plainly offensive,'" and could not be censored by the school.

The Supreme Court ruling

But the U.S. Supreme Court disagreed. Five of the nine justices said the banner was not simply a joke, but could be interpreted by the principal as endorsing illegal drug use.

Chief Justice John Roberts, who wrote the majority opinion, said it was understandable for the principal to decide that it promoted illegal drug use and that "failing to act would send a powerful message to the students in her charge, including Frederick, about how serious the school was about the dangers of illegal drug use."

He added, "The First Amendment does not require schools to tolerate at school events student expression that contributes to those dangers."

But four of the justices disagreed, saying the decision was unnecessarily harsh and limiting.

Justice John Paul Stevens, who wrote the dissenting opinion, said that "carving out pro-drug speech for uniquely harsh treatment finds no support in our case law and is inimical to the values protected by the First Amendment."

He added that alcohol is illegal among teenagers and wondered in his opinion whether "the court would support punishing Frederick for flying a 'Wine Sips 4 Jesus' banner."

One justice, Clarence Thomas, took an even harder line than Roberts, finding that Frederick had no First Amendment rights to violate.

"In light of the history of American public education, it cannot seriously be suggested that the First Amendment 'freedom of speech' encompasses a student's right to speak in public schools," Thomas wrote. "I am afraid that our jurisprudence now says that students have a right to speak in school except when they don't."

Surprising combination of supporters

The case brought together such disparate groups as the liberal American Civil Liberties Union, gay rights activists and conservative Christian groups who want to protect free speech.

A Christian legal organization, the American Center for Law & Justice, wanted the court to drop the case. "It would be regrettable if the court were to resolve the important questions of constitutional law at issue here in the context of a jokester's prank, rather than a student's bearing of a serious message."

Steven Shapiro, the national legal director of the American Civil Liberties Union, told the Washington Post ahead of the ruling that a court decision against Frederick could "overrule the

entire architecture of student speech law that the Supreme Court has so carefully constructed over the past 40 years."

Whether the narrowly decided case will have that sweeping an impact on the nation's schools will have to be tested in future cases.

-- *Compiled by Molly Finnegan for NewsHour Extra*

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