
Student Reading 1:
Bong Hits 4 Jesus

The Olympic torch passed through Juneau, Alaska, on January 24, 2002, on its way to Salt Lake City, where the Winter Games were to be held. Juneau-Douglas High School students had permission to go outside to watch the torch go by. One of them, Joseph Frederick, stood across the street from the school but had not yet been to class that day. As the torch parade went by, he and some friends unfurled a banner displaying the words, "Bong Hits 4 Jesus."

High School principal Deborah Morse viewed the words on the banner as drug-related, confiscated it and suspended Frederick from school for five days for promoting illegal substances at a school-sanctioned event. After he refused to name the friends who helped him, she added five more. Aided by the Juneau Civil Liberties Union, Frederick sued the principal for violating his First Amendment right to freedom of speech.

Frederick said he saw the words on a snowboard and thought they were "meaningless and funny." He wanted "to get on television." And "I wasn't trying to say anything about religion, I wasn't trying to say anything about drugs." Later he added that what he did was "most importantly an exercise of my inalienable right to free speech."

A lower court upheld Frederick's suspension, but the San Francisco Ninth Circuit Court of Appeals overturned this decision. It objected to school censorship of "non-disruptive off-campus speech by students during school-authorized activities because the speech [promoted] a social message contrary to one favored by the school." The appeals court ruled that freedom of speech cannot be restricted unless it disrupts school activities.

Principal Deborah Morse and the Juneau school board took the case to the Supreme Court, which heard arguments on March 19, 2007. Morse's lawyer, Kenneth Starr, was asked what Frederick's behavior disrupted. "The educational mission of the school," he responded, for it was "inconsistent with the fundamental message of the schools, which is that the use of illegal drugs is simply verboten."

Supporting the principal, the Bush administration's deputy solicitor general, Edwin Kneeder, said that "schools receiving federal money" must "convey a clear and consistent message" that illegal drug use "is wrong and harmful."

Joseph Frederick's lawyer, Douglas Mertz, disagreed. "This is a case about free speech. It is not a case about drugs." He cited the 1969 landmark Supreme Court ruling in favor of John Tinker and two other students who wore black armbands to schools in Des Moines, Iowa, to protest the Vietnam War on December 16, 1965. The students refused to remove them and were suspended from school until after New Year's Day.

In *Tinker v. Des Moines Independent Community School District*, the Supreme Court by a 7-2 margin declared that the principal did not show that the students had substantially interfered with or disrupted the school program. In the decision, Justice Abe Fortas wrote that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." Public schools "may not be enclaves of totalitarianism." Schools should promote "a robust exchange of ideas."

In the current case, Mertz, the student's attorney, argued that schools promoting an anti-drug perspective must permit students outside of the classroom to present a competing view. "Content neutrality is critical here," he said. Chief Justice John Roberts disagreed. "Where does that notion that our school have to be content neutral" come from? he asked. "I thought we wanted our schools to teach something, including something besides just basic elements, including character formation and not to use drugs."

On the other hand, Justice Samuel Alito Jr. took issue with Edwin Kneeder's comment that a school "does not have to tolerate a message that is inconsistent" with its educational mission. "I find that a very, very disturbing argument," the justice said, "because schools have defined their educational mission so broadly that they can suppress all sorts of political speech and speech expressing fundamental values of the students under the banner of getting rid of speech that's inconsistent with educational missions."

The Supreme Court will announce its decision later this year.