

Morse v.
Frederick

2007



Joseph Frederick

“Bong Hits 4 Jesus”



Key Points

- On Jan 23, 2002, students were allowed to leave school at Juneau-Douglas High School in Juneau, Alaska in order to watch the Olympic Torch Relay.
- During that time, Joseph Frederick and other students held up a banner reading “Bong Hits 4 Jesus” while standing across the street from the school.

Key Points (cont.)

- Deborah Morse, principal, subsequently suspended Frederick from school.
- Frederick sued his principal, claiming that his first amendment rights had been violated.
- A local district court dismissed the case on a summary judgement, but on appeal, the Ninth Circuit Court of Appeals reversed, finding that Frederick's rights had been violated.

Points (cont.)

- The District Court's Stance: Frederick's case fell under coverage of Fraser (narrowed), not Tinker (broad), and his message wasn't covered because it violated the school's anti-drug policy.
- The Ninth Circuit's Stance: Should speech that happens outside the school doors, outside of a school activity, be censored just because it goes against the collective opinion of the school? No. This is why they reversed.

“Fraser holds that high school students's rights to free speech in school are not coextensive with adults's rights, and "pervasive sexual innuendo" that is "plainly offensive . . . to any mature person" can be marked off as impermissible incivility within the school context. 12 Fraser focuses upon the sexual nature of the offensiveness in the in-school speech that can be punished, as contrasted with the "political viewpoint" of the speech protected in Tinker. 13 Our case differs from Fraser in that Frederick's speech was not sexual (sexual speech can be expected to stimulate disorder among those new to adult hormones), and did not disrupt a school assembly. Also, it is not so easy to distinguish speech about marijuana from political speech in the context of a state where referenda regarding marijuana legalization repeatedly occur and a controversial state court decision on the topic had recently issued. 14 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" in the way sexual innuendo is.”

Appeal to the Supreme Court

- The School Board, concerned that the ruling could conflict with the messages they wanted to send to students, appealed to the US Supreme Court.
- In December of 2006, the Supreme Court agreed to hear the case.



Principal Deborah Morse

Students rallied for
free speech rights...

[http://www.youtube.com/watch?
v=n_LsGoDWC0o](http://www.youtube.com/watch?v=n_LsGoDWC0o)

The Supreme Court Final Decision (5-4)

- The majority made three legal determinations:
 - A. The “school speech” doctrine could be utilized because the speech took place at a school-related event
 - B. The principal reasonably interpreted the language as advocating drug use
 - C. The speech could be censored due to the school’s “compelling interest” to prevent student drug use

Aftermath

- This is the most recent Supreme Court case dealing with student first amendment rights.
- Many legal experts disagreed with the Supreme Court's reversal of the Circuit Court's decision, and it remains controversial to this day.
- The original "Bong Hits 4 Jesus" banner is hanging in the Newseum in Washington D.C.

Controversy: At what point does it become dangerous for a school to censor student speech with which it disagrees?

What Do You Think?