TINKER V. DES MOINES INDEPENDENT COMMUNITY SCHOOL DISTRICT

Term: 1960-1969 1968

Location: Des Moines Independent Community School District

Facts of the Case

In December 1965, a group of students in Des Moines held a meeting in the home of 16-year-old Christopher Eckhardt to plan a public showing of their support for a truce in the Vietnam war. They decided to wear black armbands throughout the holiday season and to fast on December 16 and New Year's Eve. The principals of the Des Moines school learned of the plan and met on December 14 to create a policy that stated that any student wearing an armband would be asked to remove it, with refusal to do so resulting in suspension. On December 16, Mary Beth Tinker and Christopher Eckhardt wore their armbands to school and were sent home. The following day, John Tinker did the same with the same result. The students did not return to school until after New Year's Day, the planned end of the protest.

Through their parents, the students sued the school district for violating the students' right of expression and sought an injunction to prevent the school district from disciplining the students. The district court dismissed the case and held that the school district's actions were reasonable to uphold school discipline. The U.S. Court of Appeals for the Eighth Circuit affirmed the decision without opinion.

Question

Does a prohibition against the wearing of armbands in public school, as a form of symbolic protest, violate the students' freedom of speech protections guaranteed by the First Amendment?

Conclusion

Decision: 7 votes for Tinker, 2 vote(s) against **Legal provision:** Amendment 1: Speech, Press, and Assembly

Yes. Justice Abe Fortas delivered the opinion of the 7-2 majority. The Supreme Court held that the armbands represented pure speech that is entirely separate from the actions or conduct of those participating in it. The Court also held that the students did not lose their First Amendment rights to freedom of speech when they stepped onto school property. In order to justify the suppression of speech, the school officials must be able to prove that the conduct in question would "materially and substantially interfere" with the operation of the school. In this case, the school district's actions evidently stemmed from a fear of possible disruption rather than any actual interference. In his concurring opinion, Justice Potter Stewart wrote that children are not necessarily guaranteed the full extent of First Amendment rights. Justice Byron R. White wrote a separate concurring opinion in which he noted that the majority's opinion relies on a distinction between communication through words and communication through action. Justice Hugo L. Black wrote a dissenting opinion in which he argued that the First Amendment does not provide the right to express any opinion at any time. Because the appearance of the armbands distracted students from their work, they detracted from the ability of the school officials to perform their duties, so the school district was well within its rights to discipline the students. In his separate dissent, Justice John M. Harlan argued that school officials should be afforded wide authority to maintain order unless their actions can be proven to stem from a motivation other than a legitimate school interest.

BOARD OF EDUCATION OF WESTSIDE COMMUNITY SCHOOLS V. MERGENS

Term: 1980-1989 **1989**

Location: Westside High School

Facts of the Case

The school administration at Westside High School denied permission to a group of students to form a Christian club with the same privileges and meeting terms as other Westside after-school student clubs. In addition to citing the Establishment Clause, Westside refused the club's formation because it lacked a faculty sponsor. When the school board upheld the administration's denial, Mergens and several other students sued. The students alleged that Westside's refusal violated the Equal Access Act, which requires that schools in receipt of federal funds provide "equal access" to student groups seeking to express "religious, political, philosophical, or other content" messages. On appeal from an adverse District Court ruling, the Court of Appeals found in favor of the students. The Supreme Court granted Westside certiorari.

Question

Was Westside's prohibition against the formation of a Christian club consistent with the Establishment Clause, thereby rendering the Equal Access Act unconstitutional?

Conclusion

Decision: 8 votes for Mergens, 1 vote(s) against **Legal provision:** 20 U.S.C. 4071
No. In distinguishing between "curriculum" and "noncurriculum student groups," the Court held that since Westside permitted other noncurricular clubs, it was prohibited under the Equal Access Act from denying equal access to any after- school club based on the content of its speech. The proposed Christian club would be a noncurriculum group since no other course required students to become its members, its subject matter would not actually be taught in classes, it did not concern the school's cumulative body of courses, and its members would not receive academic credit for their participation. The Court added that the Equal Access Act was constitutional because it served an overriding secular purpose by prohibiting discrimination on the basis of philosophical, political, or other types of speech. As such, the Act protected the Christian club's formation even if its members engaged in religious discussions.

HAZELWOOD SCHOOL DISTRICT V. KUHLMEIER

Term: 1980-1989 **1987 Location: Hazelwood East High School**

Facts of the Case

The Spectrum, the school-sponsored newspaper of Hazelwood East High School, was written and edited by students. In May 1983, Robert E. Reynolds, the school principal, received the pages proofs for the May 13 issue. Reynolds found two of the articles in the issue to be inappropriate, and ordered that the pages on which the articles appeared be withheld from publication. Cathy Kuhlmeier and two other former Hazelwood East students brought the case to court.

Question

Did the principal's deletion of the articles violate the students' rights under the First Amendment?

Conclusion

Decision: 5 votes for Hazelwood School District, 3 vote(s) against **Legal provision:** Amendment 1: Speech, Press, and Assembly

No. In a 5-to-3 decision, the Court held that the First Amendment did not require schools to affirmatively promote particular types of student speech. The Court held that schools must be able to set high standards for student speech disseminated under their auspices, and that schools retained the right to refuse to sponsor speech that was "inconsistent with 'the shared values of a civilized social order.'" Educators did not offend the First Amendment by exercising editorial control over the content of student speech so long as their actions were "reasonably related to legitimate pedagogical concerns." The actions of principal Reynolds, the Court held, met this test.

SAFFORD UNIFIED SCHOOL DISTRICT V. REDDING

Term: 2000-2009 **2008**

Location: Safford Middle School

Facts of the Case

Savana Redding, an eighth grader at Safford Middle School, was strip-searched by school officials on the basis of a tip by another student that Ms. Redding might have ibuprofen on her person in violation of school policy. Ms. Redding subsequently filed suit against the school district and the school officials responsible for the search in the District Court for the District of Arizona. She alleged her Fourth Amendment right to be free of unreasonable search and seizure was violated. The district court granted the defendants' motion for summary judgment and dismissed the case. On the initial appeal, the U.S. Court of Appeals for the Ninth Circuit affirmed. However, on rehearing before the entire court, the court of appeals held that Ms. Redding's Fourth Amendment right to be free of unreasonable search and seizure was violated. It reasoned that the strip search was not justified nor was the scope of intrusion reasonably related to the circumstances.

Question

1) Does the Fourth Amendment prohibit school officials from strip searching students suspected of possessing drugs in violation of school policy?

2) Are school officials individually liable for damages in a lawsuit filed under 42 U.S.C Section 1983?

Conclusion

Decision: 7 votes for Redding, 2 vote(s) against **Legal provision:** Fourth Amendment
Sometimes, fact dependent. No. The Supreme Court held that Savanna's Fourth Amendment rights were violated when school officials searched her underwear for non-prescription painkillers. With David H. Souter writing for the majority and joined by Chief Justice John G. Roberts, and Justices Antonin G. Scalia, Anthony M. Kennedy, Stephen G. Breyer, and Samuel A. Alito, and in part by Justices John Paul Stevens and Ruth Bader Ginsburg, the Court reiterated that, based on a reasonable suspicion, search measures used by school officials to root out contraband must be "reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction." Here, school officials did not have sufficient suspicion to warrant extending the search of Savanna to her underwear. The Court also held that the implicated school administrators were not personally liable because "clearly established law [did] not show that the search violated the Fourth Amendment." It reasoned that lower court decisions were disparate enough to have warranted doubt about the scope of a student's Fourth Amendment right.

Justice Stevens wrote separately, concurring in part and dissenting in part, and was joined by Justice Ginsburg. He agreed that the strip search was unconstitutional, but disagreed that the school administrators retained immunity. He stated that "[i]t does not require a constitutional scholar to conclude that a nude search of a 13-year old child is an invasion of constitutional rights of some magnitude." Justice Ginsburg also wrote a separate concurring opinion, largely agreeing with Justice Stevens point of dissent. Justice Clarence Thomas concurred in the judgment in part and dissented in part. He agreed with the majority that the school administrators were qualifiedly immune to prosecution. However, he argued that the judiciary should not meddle with decisions school administrators make that are in the interest of keeping their schools safe.

BETHEL SCHOOL DISTRICT NO. 403 V. FRASER

Term: 1980-1989 **1985**

Location: Bethel High School

Facts of the Case

At a school assembly of approximately 600 high school students, Matthew Fraser made a speech nominating a fellow student for elective office. In his speech, Fraser used what some observers believed was a graphic sexual metaphor to promote the candidacy of his friend. As part of its disciplinary code, Bethel High School enforced a rule prohibiting conduct which "substantially interferes with the educational process . . . including the use of obscene, profane language or gestures." Fraser was suspended from school for two days.

Question

Does the First Amendment prevent a school district from disciplining a high school student for giving a lewd speech at a high school assembly?

Conclusion

Decision: 7 votes for Bethel School District No. 403, 2 vote(s) against **Legal provision:** Amendment 1: Speech, Press, and Assembly

No. The Court found that it was appropriate for the school to prohibit the use of vulgar and offensive language. Chief Justice Burger distinguished between political speech which the Court previously had protected in Tinker v. Des Moines Independent Community School District (1969) and the supposed sexual content of Fraser's message at the assembly. Burger concluded that the First Amendment did not prohibit schools from prohibiting vulgar and lewd speech since such discourse was inconsistent with the "fundamental values of public school education."

SANTA FE INDEPENDENT SCHOOL DIST. V. DOE
Term: 1990-1999 1999
Location: Santa Fe Independent School District
Facts of the Case
Prior to 1995, a student elected as Santa Fe High School's student council chaplain delivered a prayer, described as overtly Christian, over the public address system before each home varsity football game. One Mormon and one Catholic family filed suit challenging this practice and others under the Establishment Clause of the First Amendment. The District Court enjoined the public Santa Fe Independent School District (the District) from implementing its policy as it stood. While the suit was pending, the District adopted a new policy, which permitted, but did not require, student-initiated and student- led prayer at all the home games and which authorized two student elections, the first to determine whether "invocations" should be delivered at games, and the second to select the spokesperson to deliver them. After the students authorized such prayers and selected a spokesperson, the District Court entered an order modifying the policy to permit only nonsectarian, nonproselytizing prayer. The Court of Appeals held that, even as modified by the District Court, the football prayer policy was invalid. The District petitioned for a writ of certiorari, claiming its policy did not violate the Establishment Clause because the football game messages were private student speech, not public speech.
Question
Does the Santa Fe Independent School District's policy permitting student-led, student-initiated prayer at football games violate the Establishment Clause of the First Amendment?

Conclusion
Decision: 6 votes for Doe, 3 vote(s) against **Legal provision:** Establishment of Religion Yes. In a 6-3 opinion delivered by Justice John Paul Stevens, the Court held that the District's policy permitting student-led, student-initiated prayer at football games violates the Establishment Clause. The Court concluded that the football game prayers were public speech authorized by a government policy and taking place on government property at government-sponsored school-related events and that the District's policy involved both perceived and actual government endorsement of the delivery of prayer at important school events. Such speech is not properly characterized as "private," wrote Justice Stevens for the majority. In dissent, Chief Justice William H. Rehnquist, joined by Justices Antonin Scalia and Clarence Thomas, noted the "disturbing" tone of the Court's opinion that "bristle[d] with hostility to all things religious in public life."

Name Class Date

SUPREME COURT CASE 49

NEW JERSEY V. T.L.O. (1985)

Background of the Case

A New Jersey high school teacher discovered a 14-year-old freshman, whom the courts later referred to by her initials—T.L.O., smoking in a school lavatory. Since smoking was a violation of school rules, T.L.O. was taken to the Assistant Vice Principal's office.

When questioned by the Assistant Vice Principal, T.L.O. denied that she had been smoking. The Assistant Vice Principal then searched her purse. Upon opening the purse he found a pack of cigarettes along with rolling papers commonly used for smoking marijuana. As a result, he searched the purse more thoroughly and found marijuana, a pipe, plastic bags, a large amount of money, an index card listing students who owed T.L.O. money, and two letters that implicated T.L.O. in marijuana dealing.

The Assistant Vice Principal notified T.L.O.'s mother and turned the evidence of drug dealing over to the police. T.L.O. was charged as a juvenile with criminal activity. T.L.O., in turn, claimed the evidence of drug dealing found in her purse could not be used in Court as evidence because it was obtained through an illegal search. T.L.O.'s attorneys claimed that the Fourth Amendment protects against unreasonable search and seizure. The constitutional requirements for "probable cause" and issuing a search warrant applied to T.L.O. while in high school as a student. After appeals in the lower courts, the case eventually reached the Supreme Court.

Constitutional Issue

T.L.O.'s case raised the question of whether the Fourth Amendment required school officials to meet the same strict standards as police officers where conducting searches of students' property in school. In most instances police officers must have "probable cause" to believe that the subject of a search has violated or is violating the law, and they must obtain a proper search warrant. If these standards are not met by the police, evidence gathered from a search can be excluded from a criminal trial.

The Court's Decision

The Court ruled that (1) the Fourth Amendment ban on unreasonable searches and seizures applies to searches conducted by school officials and that (2) the search of T.L.O. was reasonable. However, the Court also ruled that school officials do not have to meet the same standards as police officers when conducting searches.

Justice Byron White wrote the Court's opinion. White noted that students have a real need to bring personal property into school and have "legitimate expectations of privacy" while in school. At the same time, White added, "against the child's interest in privacy must be set the substantial interest of teachers and administrators in maintaining discipline in the classroom and on school grounds." The Court devised a plan to ease for school officials the Fourth Amendment requirements for a lawful search. Justice White outlined two ways this could be done.

First, the Court ruled that school officials need not obtain a search warrant before searching a student who is under their supervision. "The warrant requirement," Justice White said, "is unsuited to the school environment . . . [and] would unduly interfere with the maintenance of the swift and informal disciplinary procedures needed in the schools."

Second, the Court ruled that school officials do not have to be held to the same strict "probable cause" standard that applies to police when conducting searches. In earlier cases the Court had ruled that "probable cause" meant that police must have solid information that there is a real chance the

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person being searched has violated or is violating the law. Instead, the Court said school officials may search a student as long as "there are reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school." Thus, the Court replaced the "probable cause" requirement with a "reasonableness" requirement.

Two justices, Brennan and Marshall, disagreed strongly with letting school officials use a "reasonableness" standard instead of the same "probable cause" standard required of the police. Justice Brennan wrote, "This [idea] finds support neither in precedent nor policy and . . . [could lead to] a dangerous weakening of the purpose of the Fourth Amendment to protect the privacy and security of our citizens."

Analyzing the Case

1. Why did the Vice Principal search T.L.O.'s purse?

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2. Do you think the search was reasonable? Give reasons for your answer.

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3. What must police do to conduct a lawful search under the Fourth Amendment?

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Critical Thinking

4. Drawing Conclusions Why did the Supreme Court give school officials more freedom to conduct searches than the police have?

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SUPREME COURT SCHOOL DECISIONS

Case Name Facts of the case	What is the Constitutional Question?	Petitioner Argument the one who sued	Respondent Argument the one being sued	Conclusion

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