Name _____ Date _____ Class _____

Supreme Court Case Study 54

Prayer in the Public Schools

Wallace v. *Jaffree*, 1985

★★★★★★★★★★★★★★★★ Background of the Case ★★★★★★★★★★★★★★★★

In the 1980s, after the Supreme Court had declared many forms of prayer in the schools unconstitutional, 25 states passed laws they hoped would meet the Court's standards for constitutionality. These were the so-called moment-of-silence laws. The laws were designed to promote a new type of school prayer. The moment-of-silence laws varied slightly, but in general they allowed teachers to set aside a moment in each public school classroom each day for students to engage in silent meditation. Often the intent of these laws was to give each student the opportunity to pray during the moment of silence.

Alabama had a law that authorized a one-minute period of silence in all public schools "for meditation or voluntary prayer." Ishmael Jaffree, a parent of three school children in the public schools of Mobile County, Alabama, challenged the state's moment-of-silence law. He claimed that the law violated the First Amendment prohibition against the establishment of religion.

Constitutional Issue ★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★

The question for the Court to decide was whether a state law authorizing a daily period of silence in all of Alabama's public schools for the purpose of meditation or voluntary prayer violated the establishment clause of the First Amendment.

★★★★★★★★★★★★★★ The Supreme Court's Decision ★★★★★★★★★★★★★★

By a 6-to-3 vote the Court ruled that the Alabama law was an endorsement of religion in the public schools and thus violated the First Amendment.

Justice John Paul Stevens wrote the majority opinion. He noted that the history of the Alabama law clearly indicated that the state "intended to change existing law and that it was motivated by the . . . purpose . . . to characterize prayer as a favored practice." Such an endorsement, Stevens argued, "is not consistent with the established principle that the government must pursue a course of complete neutrality toward religion."

Stevens explained that whenever government itself "speaks on a religious subject, one of the questions that we must ask is 'whether the government intends to convey a message of endorsement or disapproval of religion.' " In Alabama the Court found that the state legislature had passed the moment-of-silence law "to convey a message of state approval of prayer activities in the public schools. . . ." The law, the Court held, did not have a valid secular purpose, but rather one that sought to return prayer to the public schools.

Two of the justices, Sandra Day O'Connor and Lewis F. Powell, Jr., wrote concurring opinions that noted that some moment-of-silence laws might be constitutional. O'Connor argued that "a state-sponsored moment of silence in the public schools was different from

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Supreme Court Case Study 54 *(continued)*

state-sponsored vocal prayer or Bible reading." First, she wrote, "a moment of silence is not inherently religious. Silence, unlike prayer or Bible reading, need not be associated with a religious exercise."

Second, a pupil who participated in a moment of silence need not compromise his or her beliefs. During a moment of silence, O'Connor wrote, "a student who objects to prayer is left to his or her own thoughts, and is not compelled to listen to the prayers or thoughts of others." Nevertheless, she concluded that the Alabama law was unconstitutional because it was very clear from the official history of the law that its "sole purpose" was "to return voluntary prayer to the public schools." In addition, O'Connor noted that the state legislature clearly wanted to use the law to encourage students to choose prayer over other alternatives during the moment of silence. Thus, the message actually conveyed to students and teachers was that "prayer was the endorsed activity during the state-prescribed moment of silence."

★★★★★★★★★★★★★★★★★★ Dissenting Opinion ★★★★★★★★★★★★★★★★★★

Chief Justice Warren E. Burger, Justice William H. Rehnquist, and Justice Byron R. White each wrote dissenting opinions. Chief Justice Burger captured the main dissenting idea when he stated, "It makes no sense to say that Alabama has 'endorsed prayer' by merely enacting a new statute . . . that voluntary prayer is *one* of the authorized activities during a moment of silence."

Thus, Burger went on to suggest that if using the word *prayer* in a moment-of-silence law unconstitutionally endorses religion, then deliberately omitting the word in a similar law "manifests hostility toward religion." Burger maintained, "The Alabama legislature has no more 'endorsed' religion than a state or the Congress does when it provides legislative chaplains, or than this Court does when it opens each session with an invocation to God."

Justice Rehnquist reviewed the history of the First Amendment and concluded that the Framers of the Constitution intended "to prohibit the designation of any church as a national one. . . . Nothing in the establishment clause, however, requires government to be strictly neutral between religion and irreligion." Thus, according to Rehnquist, the Constitution did not prohibit Alabama from making a "generalized endorsement of prayer" by passing a moment-of-silence law that would promote prayer "as a favored practice."

DIRECTIONS: Answer the following questions on a separate sheet of paper.

1. Why did Alabama pass its moment-of-silence law?

2. On what grounds did the Supreme Court declare the Alabama law unconstitutional?

3. In Justice O'Connor's view, if the Alabama legislature had not related the moment-of-silence law to religion, do you think she would have declared it unconstitutional? Explain.

4. What was the basis of Chief Justice Burger's dissent?

5. Do you agree with Justice Stevens's opinion or with Chief Justice Burger's? Explain.

Name _____ Date _____ Class _____

Supreme Court Case Study 55

Rights of Students to Free Speech

Bethel School District v. *Fraser*, 1986

★★★★★★★★★★★★★★★★ Background of the Case ★★★★★★★★★★★★★★★★

Matthew Fraser, a student at Bethel High School in Pierce County, Washington, gave a speech to a school assembly nominating a fellow student for elective office. About 600 high school students elected to attend the assembly. Throughout his speech Fraser used "an elaborate, graphic, explicit sexual metaphor" to describe his candidate.

The assembly was a regular part of a school-sponsored educational program in self-government. Students were required to attend the assembly or report to a study hall.

Fraser had discussed his speech in advance with two of his teachers. Both warned him that the speech was "inappropriate" and that he "probably should not deliver it." They warned him that giving the speech might have "severe consequences" for him.

Fraser chose to ignore this advice. His speech disrupted the assembly. Students "hooted and yelled." Others appeared to be embarrassed. As a result, under the school's disruptive conduct rule, school officials suspended Fraser from school for three days and removed his name from a list of possible graduation speakers.

The school's rule prohibited conduct that "materially and substantially interferes with the educational process . . . including the use of obscene, profane language or gestures." Fraser challenged the constitutionality of the school's punishment under this rule. He claimed the school's punishment violated his right to free speech as guaranteed by the First Amendment. Eventually the case made its way to the United States Supreme Court.

Constitutional Issue ★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★

Controversies over First Amendment rights to free speech often arise from unexpected sources and circumstances, and a common question is whether these rights apply to certain individuals—for example, children.

The First Amendment does not specify whether the rights of free speech are limited to persons of any particular age. Does this mean that adults have greater freedom to use whatever language they choose than young people? Do students in high school have the same freedom as older people? Does the First Amendment protection of free speech prevent school officials from limiting obscene or vulgar speech that could disrupt the educational process?

★★★★★★★★★★★★★★ The Supreme Court's Decision ★★★★★★★★★★★★★★

By a vote of 7 to 2 the Court ruled that, under the First Amendment, school officials have the authority to discipline students for lewd or indecent speech at school events. Chief Justice Warren E. Burger wrote the decision.

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Name _____ Date _____ Class _____

Supreme Court Case Study 55 *(continued)*

Burger began by observing that the schools have a basic responsibility to prepare students for citizenship. Thus, it was appropriate for schools to prohibit the use of vulgar language in public discourse in school. Burger wrote, "The undoubted freedom to advocate unpopular and controversial views in schools and classrooms must be balanced against the society's countervailing interest in teaching students the boundaries of socially appropriate behavior."

The Court noted that the First Amendment gives wide freedom to adults in matters of political speech. However, the Court stated, "It does not follow, however, that simply because the use of an offensive form of expression may not be prohibited to adults making what the speaker considers a political point, the same latitude must be permitted to children in a public school."

Indeed, Burger observed that "nothing in the Constitution prohibits states from insisting that certain modes of expression are inappropriate and subject to sanctions." Instead, Burger explained, "the determination of what manner of speech in the classroom or in school assembly is inappropriate properly rests with the school board."

In the Supreme Court decision *Tinker* v. *Des Moines*, the Court had protected the rights of students under the First Amendment to wear black armbands to school to protest the Vietnam War. In that decision, the Court ruled that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." Was using obscene speech to nominate a fellow student the same as using armbands to convey a political message about the Vietnam War?

In the *Tinker* case the Court had ruled that when school officials punished students for wearing black armbands, they were censoring students' political ideas about the Vietnam War. In Fraser's case, however, Burger pointed out that the school's penalties "were unrelated to any political viewpoint." Thus, Burger concluded that "the First Amendment does not prevent the school officials from determining that to permit a vulgar and lewd speech such as [Fraser's] would undermine the school's basic educational mission."

DIRECTIONS: Answer the following questions on a separate sheet of paper.

1. According to the Court, how did the school's responsibility for citizenship education affect students' First Amendment rights?
2. How did the Court distinguish between the *Tinker* case and the *Fraser* case?
3. Suppose Fraser had given the same speech to a group of students away from the school grounds but had nevertheless been punished by school officials. How do you think the Court would have ruled in that case? Give reasons for your answer.
4. What did the Court say about the difference between adults' rights under the First Amendment and students' rights under the same amendment?
5. Do you agree or disagree with the Court's ruling in the *Fraser* case? Give reasons for your answer.

Name _____ Date _____ Class _____

Supreme Court Case Study 56

Students' First Amendment Rights

Hazelwood School District v. *Kuhlmeier*, 1988

★★★★★★★★★★★★★★★★ Background of the Case ★★★★★★★★★★★★★★★★

In May 1983 the principal of Hazelwood East High School in St. Louis County, Missouri, ordered that two pages from an issue of *Spectrum*, a student newspaper, be deleted. The two pages included an article on students' experiences with pregnancy and another about the impact of divorce on students at the school.

The principal objected to the story on pregnancy because he believed the girls described in the story could easily be identified even if their names were left out of the story. In addition, he said, the references in the story to sexual activity were not suitable for the younger students at the school.

The principal objected to the story on divorce because it named a student who complained about her father's behavior. The principal believed the parents should have been given a chance to respond to the story.

The school paper was written and edited by the school's journalism class as part of the school curriculum. The principal also said he had "serious doubts" that the two articles fit the journalistic rules of fairness and privacy taught in the course. Three former students who worked on the student paper in 1983 then filed a suit against the principal, the school district, and other school officials. They claimed that the principal's action had violated their First Amendment rights to free speech.

In May 1985 a federal district court judge ruled against the students. In July 1986, however, a federal appeals court overturned that ruling. The appeals court said the *Spectrum* was a public forum for student expression and was fully protected by the First Amendment. In 1987 the United States Supreme Court agreed to hear the case.

Constitutional Issue ★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★

Clashes between high school students and school administrators are not uncommon. Students tend to resent being told what they cannot do or say. In some instances, such disputes reach the courts, as in the case of *Bethel School District* v. *Fraser*. In that case the Supreme Court ruled that under the circumstances of the case, the students were not protected by the First Amendment right of free speech.

In the *Hazelwood* case, the principal's decision to censor the school newspaper raised a basic constitutional question. Does the First Amendment guarantee of freedom of speech prevent school administrators from regulating student speech in school-sponsored publications, such as newspapers and yearbooks?

★★★★★★★★★★★★★★ The Supreme Court's Decision ★★★★★★★★★★★★★★

The Court ruled 5 to 3 against the students. (The Court had only 8 justices during this time.) Justice Byron R. White wrote the majority opinion.

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Supreme Court Case Study 56 *(continued)*

White stated that the First Amendment rights of students in public schools are not exactly the same as the rights of adults in other settings. White explained that a school "must be able to set high standards for student speech . . . under [its] auspices—standards that may be higher than those demanded by some newspaper publishers and theatrical producers in the 'real' world—and may refuse to . . . [publish] student speech that does not meet those standards."

In the case of *Tinker* v. *Des Moines* in 1969, the Court had ruled the First Amendment gave students the right to wear black armbands to school to protest the Vietnam War. Justice White said that while the *Tinker* decision protected students' rights to personally express their political ideas, speech in school-sponsored newspapers was different because it occurred "as part of the school curriculum."

A school newspaper like the *Spectrum*, the Court decided, was not "a forum for public expression" but rather a tool for teaching and learning. As a result, "educators are entitled to exercise greater control over this form of student expression to assure that participants learn whatever lessons the activity is designed to teach." Thus, the Court held "that educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities. . . ."

★★★★★★★★★★★★★★★★★★ Dissenting Opinion ★★★★★★★★★★★★★★★★★★

Justice William H. Brennan, joined by Justices Marshall and Blackmun, dissented. Brennan noted that the *Tinker* decision said school officials could limit student speech only if the speech threatened to "materially disrupt" schoolwork or violate the rights of others. He argued, "*Tinker* teaches us that the state educator's undeniable . . . mandate to inculcate moral and political values is not a general warrant to act as 'thought police' stifling discussion of all but state-approved topics and advocacy of all but the official position."

Brennan added that "instead of teaching children to respect the diversity of ideas that is fundamental to the American system . . . the Court today teaches youth to discount important principles of our government as mere platitudes."

School officials across the nation praised the Court's decision. They believed it gave them more authority to regulate student conduct. One official said the decision meant that schools, like "any other publisher, have the right to decide what will and will not be published." Civil libertarians, on the other hand, viewed the decision as an unwarranted curtailment of students' rights.

DIRECTIONS: Answer the following questions on a separate sheet of paper.

1. What reason did the Court give for allowing school officials to censor the school paper?
2. How did the Court distinguish between its decision in the *Tinker* case and the present case?
3. What danger did Justice Brennan see in the Court's decision?
4. If you had been the principal in the Hazelwood school, how would you have reacted after seeing the articles the students wished to publish? Give reasons for your answer.