



LANDMARK SUPREME COURT CASES AND THE CONSTITUTION

MORSE V. FREDERICK (2007)

MONDAY, SEPTEMBER 24, 2007

OVERVIEW

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The decision in one of the most important student speech cases to reach the Court in decades came at the end of last term. The case, *Morse v. Frederick* (2007), concerned the rights of a public school student to unfurl a banner reading “Bong hits 4 Jesus” at a school-sponsored event held off school grounds. We begin this school year with this landmark case on the rights of public school students.

RESOURCES

- <http://www.law.cornell.edu/supct/html/06-278.ZS.html>
- <http://citizenbee.org/user/StudentGuide.aspx?id=787>
- http://www.oyez.org/cases/2000-2009/2006/2006_06_278/

ACTIVITY

Joseph Frederick knew the Olympic Torch relay runner was close and his anticipation grew stronger. Officials at his Juneau, Alaska school had decided that students should be able to see the Olympic relay pass on its way to the games in Salt Lake City, so a mini-field trip had been organized. Students were taken outside, across the street from the school. They were surrounded by television cameras and reporters, all hoping to capture the exciting event on film. Few people even noticed Frederick was carrying a banner.

As the Olympic relay approached and cameras rolled, Frederick and some fellow students unfurled the 14-foot banner. It read, “Bong Hits 4 Jesus.” (This was a slang reference to smoking marijuana.) The banner did not create a disturbance, but Principal Deborah Morse told the students to take it down. When Frederick refused, Morse took the banner away and later suspended Frederick for ten days. She cited the school’s policy against materials promoting illegal drugs.

Frederick denied that the banner promoted drug use. He explained, “the words were just nonsense meant to attract television cameras.” He believed the First Amendment protected his right to display this banner at a public school event, and brought suit against Principal Morse. The Circuit Court agreed with Frederick and ruled that because he had been punished for the content of his speech (rather than any disturbance it caused), the school’s actions were unconstitutional. The case eventually went to the Supreme Court.

The Court decided against Frederick and ruled 5-4 that public school officials can censor student speech that could be reasonably understood to promote illegal drugs. “The concern here is not that Frederick’s speech was offensive, but that it was reasonably viewed as promoting illegal drug use.” The Court explained that the free speech rights of students had to be considered in light of the “special characteristics” of the school environment, and that it was an important responsibility of schools to deter drug use among young people.

QUESTIONS

1. Why was Joseph Frederick suspended?
2. How did the school justify his punishment?
3. How did the Supreme Court rule?
4. In his dissent, Justice Stevens argued that the message was “nonsense” and did not promote drug use. “Most students...do not shed their brains at the schoolhouse gate... The notion that the message on this banner would actually persuade [a student] to change his or her behavior is most implausible.” Do you believe the banner could be reasonably understood to promote drug use?
5. Do you believe the First Amendment protected Frederick’s actions? Why or why not?



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ANSWERS

1. He was suspended for unfurling and refusing to take down a banner reading “Bong Hits 4 Jesus” at a school-sponsored event.
2. The school cited its policy against materials promoting illegal drugs.
3. The Court ruled against Frederick, holding that the First Amendment did not protect his banner. The Court explained that the free speech rights of students had to be considered in light of the “special characteristics” of the school environment, and that it was an important responsibility of schools to deter drug use among young people.
4. Answers will vary. Some students will say that the message about drug paraphernalia is ridiculous but undeniably about advocating illegal drugs. Others will say that the message is unclear and that a reference to drugs is not necessarily advocacy of them.
5. Answers will vary. Some students will say the First Amendment absolutely protected his actions because the amendment protects freedom of speech. It does not make a distinction between children and adults. Others will say that the rights of students in public school are not the same as adults’ rights. If a person had unfurled this banner on a public street, the First Amendment would have protected its message. But school officials are responsible for students while they are in school, and must be able to keep order. Others will say that students in public school do not have freedom of speech, and that if students were permitted to say whatever they want in whatever context, the school environment would be impossible to control and learning would suffer.