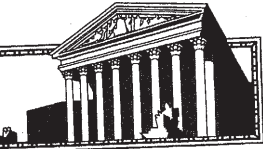


Supreme Court Case Study 53



The Right to Search Students

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. There he found a pack of cigarettes along with rolling papers commonly used for smoking marijuana. He then 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 the girl'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 had been obtained through an illegal search and seizure. T.L.O.'s attorneys claimed that the Fourth Amendment protects against unreasonable search and seizure. They maintained that the Fourth Amendment requirements for a warrant and probable cause applied to T.L.O. while in high school as a student. After appeals in lower courts, the case eventually reached the United States Supreme Court.

Constitutional Issue *****

T.L.O.'s case raised the question of whether the Fourth Amendment required school officials, when conducting searches of students' property in school, to meet the same strict standards as police officers. 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 generally must obtain a warrant issued by a neutral judicial officer. If these standards are not met by the police, evidence they have gathered from a search can be excluded as evidence of guilt in a criminal trial.

***** The Supreme Court's Decision *****

Justice Byron R. White wrote the Court's 6-to-3 decision, which ruled against T.L.O. The Court concluded that the Fourth Amendment ban on unreasonable searches and seizures applies to searches conducted by school officials but that the search of T.L.O. was reasonable. The Court also ruled that school officials do not have to meet the same standards as police officers when conducting searches.

Justice White wrote 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, however, "against the child's interest in privacy must be set the substantial interest of teachers and

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Supreme Court Case Study 53 (continued)

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. Because of the significance of the school’s interests, the Court ruled that school officials need not obtain a search warrant before searching a student who is under their supervision. “The warrant requirement,” the Court held, “is unsuited to the school environment . . . [and] would unduly interfere with the maintenance of the swift and informal disciplinary procedures needed in the schools.”

Next, the Court ruled that school officials do not have to be held to the same strict probable cause standard that applies to the police when conducting searches. In earlier cases the Court had ruled that “probable cause” meant that the police must have solid information that there is a real chance the person being searched has violated or is violating the law. Declining to apply this standard to public school officials, the Court said that 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 clause” requirement with a “reasonableness” requirement.

***** Dissenting Opinion *****

Justices William Brennan and two other justices disagreed strongly with letting school officials use a reasonableness standard instead of the same probable cause standard required of the police. Justice Brennan wrote that 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.”



Questions *****

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

1. In what way does the Court differentiate between the standard set for a school official and that for a police officer regarding a search and seizure?
2. Why did the Court give school officials more freedom than the police to conduct searches?
3. Do you think the assistant vice-principal’s search was “reasonable”? Explain.
4. Under the Court’s ruling, do you think a school official has the right to search a student any time he or she wishes? Give reasons for your answer.
5. Do you agree with the Court’s decision or with the dissenting opinion? Explain.

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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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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."

Case Analysis



Questions



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.

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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.

Case Analysis

Questions *****

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.

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