



Students wore these armbands to protest the Vietnam war.

Do Students Have Rights?

Wait a second! Can Principal Carter ban music t-shirts? Doesn't Ben have a right to wear his shirt? Isn't there, like, freedom of speech or something? Back in the 1960's, the Supreme Court made a decision about a similar case. The Supreme Court's decision created a rule about when schools are allowed to ban things like Ben's t-shirt.

First, read what the Court had to say:

Summary of

Tinker v. Des Moines Independent School District

Decided by the United States Supreme Court in 1969

In 1965, some middle and high school students wore black armbands to school to show their protest of the war in Vietnam. Before the day of the protest, the schools' principals had heard about the students' plan and told the students they could not wear the armbands. Five students were suspended from school for wearing the armbands.

Students and teachers have First Amendment rights even when they are at school. They do not leave their freedom of speech or freedom of expression behind when they walk through the schoolhouse gate. Even so, teachers and principals must keep order at school so that learning can take place. In a school setting, therefore, the First Amendment must be applied in a special way to protect free speech and keep order at the same time.

A student at school may express opinions, even about controversial subjects like war. However, the student may not disrupt learning or interfere with other peoples' rights. The First Amendment does not protect student speech that disrupts class or causes trouble between classes, and school rules can prohibit that kind of speech.

There is no evidence that the students' armbands disrupted class or any school activity. Outside class, a few students made nasty remarks to those who wore armbands. However, there were no threats or acts of violence on the school grounds.

The trial court had decided that, because the principals were afraid the armbands would be disruptive, it was reasonable for the principals to suspend the students for wearing them. The trial court, however, did not understand the importance of freedom of speech. In our legal system, a general fear of disruption is not enough to take away someone's right to freedom of expression. After all, a disruption could happen any time one person says something that another person disagrees with.

Schools cannot prohibit speech unless they have good evidence that the speech will be disruptive. They cannot prohibit speech only to avoid the uncomfortable situation of someone expressing an unpopular opinion.

A Burning Discontent

The presidential election of 1984 had something in common with all other presidential elections: People disagreed about who the next president should be. Ronald Reagan was finishing up four years as president and was running for re-election. He was a popular president, but there were many who disagreed with his ideas. One of these people was Gregory Johnson. In Dallas, Texas in the summer of 1984, Johnson joined a group of protestors outside the Republican National Convention, where Reagan was set to be nominated as the Republican presidential candidate. Standing in front of the Dallas City Hall, Johnson poured kerosene on an American flag and set it on fire. He was then arrested under a Texas law that prohibited "desecration of a venerated object." At trial, Johnson was sentenced to a year in prison and fined \$2,000.



An American flag being burned in protest.

ISSUE

Does the First Amendment right to freedom of speech protect flag burning?

DECISION

Yes. Burning the flag is an act of expression that is intended to convey a message.

The Argument

The First Amendment to the U.S. Constitution forbids laws that would limit citizens' freedom of speech. Johnson argued that the Texas law did exactly that: Burning a flag, he argued, was a form of speech that should be protected by the First Amendment.

The Decision

The Supreme Court agreed. Many times before, the Court had already said that speech is not limited to words. Conduct can also be "speech" if it is intended to send a message. The fact that Johnson's conduct involved an American flag only made it more obvious that he was trying to send a message: "Johnson was not... prosecuted for the expression of just any idea; he was prosecuted for his expression of dissatisfaction with the policies of this country," and that kind of expression is "at the core of our First Amendment values."

The Court made it clear that even though some people were seriously offended by the flag burning "speech," that didn't make it okay to limit the speech. Instead, the Court said that "a principal function of free speech under our system of government is to invite dispute." Ultimately, the Court said, "Johnson's political expression was restricted because of the content of the message he conveyed." That is exactly what the First Amendment forbids.



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If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.

— U.S. Supreme Court,
Texas v. Johnson

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Johnson (left) and his lawyer outside the Supreme Court.

So What?

Most people aren't going to go out and burn a flag. But at some point, most of us will have ideas and opinions that some people will find offensive. Does the government have the right to decide what opinions are too offensive to express? The answer is no. This case reinforced citizens' right to express ideas even if those ideas are extremely upsetting to some people. The Constitution guarantees people the freedom to hold and express whatever views they wish, about our government or the flag or anything else.