

Free Speech 4 Students?

An Analysis of the "Bong Hits 4 Jesus" Case



Can Schools Censor "Non-Disruptive" Jokes?

When high school senior Joseph Frederick unfurled a 14-foot banner reading "BONG HITS 4 JESUS" during a class trip, he did it to get attention – and it worked. His "sophomoric" prank not only got him the media spotlight, it also got him an audience at the Supreme Court, in what some legal experts have called the most important free speech case in 20 years.

The incident occurred in January 2002 on a public sidewalk just outside his Juneau, Alaska, high school grounds when the Olympic torch relay was moving through the Alaska capital on its way to the Salt Lake City, Utah, Winter Games.

Though he was standing on a public sidewalk, the school argued Frederick was part of a school-sanctioned event, because students were let out of classes and accompanied by their teachers. Principal Deborah Morse ordered the senior to take down the sign, but he refused. That led to a 10-day suspension for violating a school policy on promoting illegal drug use.

Frederick filed suit, saying his First Amendment rights were infringed. A federal appeals court in San Francisco agreed, concluding the school could not show Frederick had disrupted the school's educational mission by showing a banner off campus.

Morse took the case all the way to the nation's highest court. The justices ruled that Frederick's free speech rights were not violated by his suspension over what the majority's written opinion called a "sophomoric" banner.

In the 5-to-4 ruling in *Morse v. Frederick*, the Supreme Court held that schools have the right to censor non-disruptive student speech if it "can reasonably be regarded as encouraging illegal drug use." Writing for the majority, Chief Justice John Roberts stated that even though Frederick's message was "cryptic," teachers could reasonably determine the banner would be understood by other students as promoting recreational pot smoking. Dissenting, Justice John Paul Stevens wrote that "the Court does serious violence to the First Amendment in upholding – indeed, lauding – a school's decision to punish Frederick for expressing a view with which it disagreed."



So which side is right? On one hand, free speech is a sacred American right. On the other, education is a core American value, and schools must be able to limit students' speech to foster a healthy learning environment. Unfortunately, *Morse v. Frederick* may not be the best case for resolving this dilemma. Leaving aside the cryptic message, there is some question as to whether Frederick was even on school property.

From a free speech perspective, this case may be too limiting, and from an educational perspective, it may put too much responsibility on school administrators. As with just about every Supreme Court decision, the full impact of this decision will not become clear until it's interpreted in real-world situations.

The only winner in this matter seems to be Joseph Frederick, who (despite losing his case) achieved what most class clowns only dream of: a prank of historic proportions. He even got members of the U.S. Supreme Court talking in chambers about bong hits.

What happened to Frederick? He is halfway across the globe, teaching English to students in China.

Now 28, he told reporters in March that he displayed the banner in a deliberate attempt to provoke a response from principal Morse, by whom he had been disciplined previously. But Frederick claimed his message of free speech is very important to him, even if the wording of the infamous banner itself was not.

"I find it absurdly funny," he said. "I was not promoting drugs. ... I assumed most people would take it as a joke."

ANALYZE THE CASE

1. What are the facts of the case? (*Summarize the case*)
2. What is the disputed point?
(*What is the argument?*)
3. What rule of law is involved?
(*What right is being violated? Why?*)
4. What was the answer or decision?
(*What did the court decide? Do you agree/disagree?*)