

Synopsis of Cases Referenced in Video

1. ***Tinker v. Des Moines Independent Community School District (1969)*** (Referred to by Justice O'Connor)
Background Facts: John Tinker, 15 years old, his sister Mary Beth Tinker, 13 years old, and Christopher Echardt, 16 years old, decided along with their parents to protest the Vietnam War by wearing black armbands to their Des Moines schools during the Christmas holiday season. Upon learning of their intentions, and fearing that the armbands would provoke disturbances, the principals of the Des Moines school district resolved that all students wearing armbands be asked to remove them or face suspension. When the Tinker siblings and Christopher wore their armbands to school, they were asked to remove them. When they refused, they were suspended until after New Year's Day.

Question: Does a prohibition against the wearing of armbands in public school, as a form of symbolic protest, violate the First Amendment's freedom of speech protections?

Conclusion: The Court decided that the wearing of armbands was "closely akin to 'pure speech'" and protected by the First Amendment. School environments imply limitations on free expression, but here the principals lacked justification for imposing any such limits. The principals had failed to show that the forbidden conduct would substantially interfere with appropriate school discipline.

2. ***Texas v. Johnson (1989)*** (Flag burning case referred to by Justice Kennedy)
Background Facts: In 1984, in front of the Dallas City Hall, Gregory Lee Johnson burned an American flag as a means of protest against Reagan administration policies. Johnson was tried and convicted under a Texas law outlawing flag desecration. He was sentenced to one year in jail and assessed a \$2,000 fine. After the Texas Court of Criminal Appeals reversed the conviction, the case went to the Supreme Court.

Question: Is the desecration of an American flag, by burning or otherwise, a form of speech that is protected under the First Amendment?

Conclusion: In a 5-to-4 decision, the Court held that Johnson's burning of a flag was protected expression under the First Amendment. The Court found that Johnson's actions fell into the category of expressive conduct and had a distinctively political nature. The fact that an audience takes offense to certain ideas or expression, the Court found, does not justify prohibitions of speech. The Court also held that state officials did not have the authority to designate symbols to be used to communicate only limited sets of messages, noting that "[i]f 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."

3. ***Morse v. Frederick (2007)*** (Mentioned by Justice O'Connor)
Background Facts: At a school-supervised event, Joseph Frederick held up a banner with the message "Bong Hits 4 Jesus," a slang reference to marijuana smoking. Principal Deborah Morse took away the banner and suspended Frederick for ten days. She justified her actions by citing the school's policy against the display of material that promotes the use of illegal drugs. Frederick sued under 42 U.S.C. 1983, the federal civil rights statute, alleging a violation of his First Amendment right to freedom of speech.

Question: Does the First Amendment allow public schools to prohibit students from displaying messages promoting the use of illegal drugs at school-supervised events?

Conclusion: The Court ruled that school officials can prohibit students from displaying messages that promote illegal drug use. Chief Justice John Roberts' majority opinion held that although students do

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have some right to political speech even while in school, this right does not extend to pro-drug messages that may undermine the school's important mission to discourage drug use. The majority held that Frederick's message, though "cryptic," was reasonably interpreted as promoting marijuana use - equivalent to "[Take] bong hits" or "bong hits [are a good thing]." In ruling for Morse, the Court affirmed that the speech rights of public school students are not as extensive as those adults normally enjoy, and that the highly protective standard set by *Tinker* would not always be applied.

4. ***Bethel School District No. 403 v. Fraser (1986)*** (Speech at a high school assembly featured)

Background Facts:

At a school assembly of approximately 600 high school students, Matthew Fraser made a speech nominating a fellow student for elective office. In his speech, Fraser used what some observers believed was a graphic sexual metaphor to promote the candidacy of his friend. As part of its disciplinary code, Bethel High School enforced a rule prohibiting conduct that "substantially interferes with the educational process . . . including the use of obscene, profane language or gestures." Fraser was suspended from school for two days.

Question: Does the First Amendment prevent a school district from disciplining a high school student for giving a lewd speech at a high school assembly?

Conclusion: No. The Court found that it was appropriate for the school to prohibit the use of vulgar and offensive language. Chief Justice Warren Burger distinguished between political speech that the Court previously had protected in *Tinker v. Des Moines Independent Community School District* (1969) and the supposed sexual content of Fraser's message at the assembly. Burger concluded that the First Amendment did not prohibit schools from prohibiting vulgar and lewd speech since such discourse was inconsistent with the "fundamental values of public school education."

5. ***Lee v. Weisman (1992)*** (High school commencement case featured)

Background Facts: In keeping with the practice of several other public middle and high school principals in Providence, R.I., Robert E. Lee, a middle school principal, invited a rabbi to speak at his school's graduation ceremony. Daniel Weisman's daughter, Deborah, was among the graduates. Hoping to stop the rabbi from speaking at his daughter's graduation, Weisman sought a temporary restraining order in District Court - but was denied. After the ceremony, where prayers were recited, Weisman filed for a permanent injunction barring Lee and other Providence public school officials from inviting clergy to deliver invocations and benedictions at their schools' ceremonies. When the Court of Appeals affirmed a District Court ruling against the schools, Lee appealed to the Supreme Court and was granted certiorari.

Question: Does the inclusion of clergy who offer prayers at official public school ceremonies violate the Establishment Clause of the First Amendment?

Conclusion: Yes. In a 5-to-4 decision, the Court held that government involvement in this case creates "a state-sponsored and state-directed religious exercise in a public school." Such conduct conflicts with settled rules proscribing prayer for students. The school's rule creates subtle and indirect coercion (students must stand respectfully and silently), forcing students to act in ways that establish a state religion. The cornerstone principle of the Establishment Clause is that government may not compose official prayers to recite as part of a religious program carried on by government.

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