

The Silent Protest



First Amendment United States Constitution

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

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Students Against War v. Liberty High School

Last October, three students at Liberty High School decided to protest the war in Iraq. They decided to silently protest the war by wearing black armbands to school. The students told the principal ahead of time that they would be wearing armbands. The principal told them that wearing the armbands was not a good idea. Then, the school created a rule which said that students could not wear armbands to school. The principal told all of the students in the school about the rule.

The next week, the students came to school wearing plain black armbands on their right arms. The armbands were about one inch wide. When the principal saw the students, he had them brought to the office right away. The students were suspended from school for two weeks.

The three students filed a lawsuit against the school. The students said that their silent protest was protected under the Free Speech clause of the First Amendment and that stopping the silent protest was illegal.

In the circuit court, where the lawsuit went to trial, the school argued that the principal was right because the silent protest would keep other students from learning. The circuit court decided that suspending the students did not violate the First Amendment because the principal had a good reason to think that the armbands would cause trouble. The students appealed the circuit court's decision to the District Court of Appeal. The district court affirmed the circuit court's decision because it agreed that the principal needed to be able to keep the school safe and free of trouble.

The students appealed the district court's decision to the Florida Supreme Court, which will now hear oral argument in this case.

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Case Study Sheet

I. What are the Facts?

II. State the Issue to be Decided:

III. Arguments for Petitioner:

IV. Arguments for Respondent:

V. What Would You Decide?

VI. Reason/Evaluation:

VII. Mock Supreme Court Conference Decision:

VIII. Actual Decision of the Court:

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Constitutional Question

Did the school violate the students' First Amendment right to free speech by stopping their silent protest?

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Petitioner Arguments

MAY IT PLEASE THE COURT. MY NAME IS _____ AND I REPRESENT THE PETITIONERS, THE STUDENTS, WHO ARGUE THAT THE SCHOOL VIOLATED THEIR RIGHT TO FREEDOM OF SPEECH.

Students' Arguments (*for allowing the protest*) include:

1. Students have the right to speak out against war as much as anyone else, and their right to speak must be protected.
2. Because the students were silently protesting by wearing armbands, there was no reason to worry that the armbands would keep other students from learning.
3. Students need to learn about their constitutional rights and how to use those rights properly.
4. The silent protest actually provided a chance for students to learn because teachers could have discussed the protest with their students.
5. The students planned a silent protest so that it would not disrupt the school.

Try to think of other arguments in favor of the silent protest. Write these arguments on the note pad at your seat.

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Respondent Arguments

MAY IT PLEASE THE COURT. MY NAME IS _____ AND I REPRESENT THE RESPONDENT, THE SCHOOL, WHO BELIEVES THAT THE SILENT PROTEST WAS NOT PROTECTED UNDER THE FIRST AMENDMENT'S FREEDOM OF SPEECH.

The School's Arguments (for *not allowing the protest*) include:

1. Protesting a war is controversial. When people do something in public that is controversial, it is likely that there will be trouble.
2. Wearing armbands to make a point takes time away from class work, the school's teaching time, and it interrupts school activity.
3. When students are away from school, they have the right to express themselves however they choose.
4. Schools must be able to limit speech that will disrupt the school so that all students can learn.
5. The school must also protect the armband-wearing students from other students who don't like their controversial message.

Try to think of other arguments against the silent protest. Write these arguments on the note pad at your seat.

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Sample Questions for Justices

Questions to ask the Petitioner (Students):

1. Why should students be allowed to disrupt classes and school work by wearing armbands to school to protest a war?
2. Should students be allowed to say anything they want to in schools?
3. How could speech like wearing armbands help students learn?
4. Shouldn't schools have the right to limit students' free speech so that principals can keep order in schools ?

Try to think of other questions for the attorneys who are in favor of the silent protest. Write these questions on the note pad at your seat.

Questions to ask the Respondent (School):

1. Why should schools be allowed to limit students' speech when adults are allowed to say the very same thing?
2. If students peacefully share their opinions by wearing armbands, why is that so wrong that the students' free speech should be limited?
3. Isn't learning about different political opinions an important part of a student's education?
4. How would limiting students' free speech protect students from messing with or hurting each other?

Try to think of other questions for the attorneys who are against the silent protest. Write these questions on the note pad at your seat.

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Marshal's Script

*(You must call Court to order in a very **loud** voice.)*

All rise.

Hear ye! Hear ye! Hear ye!

The Supreme Court of Florida is now in session.

All who have cause to plea, draw near, give attention, and you shall be heard.

God save these United States, this great State of Florida, and this honorable Court.

Ladies and gentlemen, the Florida Supreme Court.

Please be seated.

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Chief Justice's Script

**The Court is ready to hear the case of
Students Against War v. Liberty High School.**

Are the attorneys ready to proceed?

Attorneys for the Petitioners may begin.

[When the Marshal calls time, you tell the petitioners' attorneys that their time is up. If the attorneys are in the middle of an answer when time is called, then you can tell them that they may briefly finish their answer.]

Attorneys for the Respondent may begin.

[When the Marshal calls time, you tell the respondent's attorneys that their time is up. If the attorneys are in the middle of an answer when time is called, then you can tell them that they may briefly finish their answer.]

Attorneys for the Petitioners may present rebuttal.

[When the Marshal calls time, you tell the petitioners' attorneys that their time is up. If the attorneys are in the middle of an answer when time is called, then you can tell them that they may briefly finish their answer.]

Attorneys, thank you for your arguments. The Court will announce its decision shortly.

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Vote Sheet

Votes:

Chief Justice Lewis

Petitioner/Students Respondent/School

Justice Wells

Petitioner/Students Respondent/School

Justice Anstead

Petitioner/Students Respondent/School

Justice Pariente

Petitioner/Students Respondent/School

Justice Quince

Petitioner/Students Respondent/School

Justice Cantero

Petitioner/Students Respondent/School

Justice Bell

Petitioner/Students Respondent/School

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Clerk

(place on Clerk's desk)

After the arguments, the Justices will vote on the case. Count the votes for the Petitioner (Students) and Respondent (School).

READ:

The Florida Supreme Court has reached a decision in this case. By a vote of _____ to _____ the Court rules in favor of the _____.

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Similar Court Decisions

Tinker v. Des Moines School District (1969)

Available at <http://laws.findlaw.com/us/393/503.html>

In this case, a group of adults and students decided to wear black armbands during the Christmas/New Year's holiday season to protest the Vietnam War. Students were to wear their armbands to school. Fearing a massive disturbance, the principals of the Des Moines School District created a policy that any student wearing an armband to school would be suspended.

John F. Tinker, his younger sister Mary Beth, and one of John's friends wore armbands to school even though they were aware of the policy. They were suspended from school, and they did not return to school until after New Year's Day.

The students' parents filed suit against the school board in United States District Court. The court ruled that the principal's actions were acceptable, given the imminent threat of disturbance caused by the wearing of the armbands.

Tinker's parents did not stop there. They appealed to United States Court of Appeals for the Eighth Circuit. The Court of Appeals affirmed the lower court's opinion and held that the school had a right to stop the student from wearing armbands to school.

Finally, Tinker appealed to the United States Supreme Court. The Court ruled that since the armbands were "quiet and passive" and did not reasonably appear to cause disruption, the school violated the students' First Amendment right to free speech, by not allowing the students to wear the armbands.