**Tinker v. Des Moines**

**Independent Community School District**

No. 21

SUPREME COURT OF THE UNITED STATES

393 U.S. 503

Argued November 12, 1968

Decided February 24, 1969

Petitioner John F. Tinker, 15 years old, and petitioner Christopher Eckhardt, 16 years old, attended high schools in Des Moines, Iowa. Petitioner Mary Beth Tinker, John’s sister, was a 13-year-old student in a junior high school.

In December 1965, a group of adults and students in Des Moines held a meeting at the Eckhardt home. The group determined to publicize their objections to the hostilities in Vietnam and their support for a truce by wearing black armbands during the holiday season and by fasting on December 16 and New Year’s Eve. Petitioners and their parents had previously engaged in similar activities, and they decided to participate in the program.

The principals of the Des Moines schools became aware of the plan to wear armbands. On December 14, 1965, they met and adopted a policy that any student wearing an armband to school would be asked to remove it, and if he refused he would be suspended until he returned without the armband. Petitioners were aware of the regulation that the school authorities adopted.

On December 16, Mary Beth and Christopher wore black armbands to their schools. John Tinker wore armband the next day. They were all sent home and suspended from school until they would come back without their armbands. They did not return to school until after the planned period for wearing armbands had expired—that is, until after New Year’s Day.

This complaint was filed in the United States District Court by petitioners, through their fathers, under § 1983 of Title 42 of the United States Code. It prayed for an injunction restraining the respondent school officials and the respondent members of the board of directors of the school district from disciplining the petitioners and it sought nominal damages.

**Majority Opinion**

The District Court recognized that the wearing of an armband for the purpose of expressing certain views is the type of symbolic act that is within the Free Speech Clause of the First Amendment…the wearing of armbands in the circumstance of this case was entirely divorced from actually or potentially disruptive conduct by those participating it. It was closely akin to “pure speech” which, we have repeatedly held, is entitled to comprehensive protection under the First Amendment… First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate. This has been the unmistakable holding of this Court for almost 50 years… That they are educating the youth for citizenship is reason for scrupulous protection of Constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes.

Our problem lies in the area where students in the exercise of First Amendment rights collide with the rules of the schools authorities… The school officials banned and sough to punish petitioners for a silent, passive expression of opinion, unaccompanied by any disorder or disturbance on the part of petitioners. There is here no evidence whatever of petitioners’ interference, actual or nascent, with the schools’ work or of collision with the rights of other students to be secure and to be let alone. Accordingly, this case does not concern speech or action that intrudes upon the work of the schools or the rights of other students… In our system, state-operated schools may not be enclaves of totalitarianism. School officials do not possess absolute authority over their students. Students in school as well as out of school are “persons” under our Constitution. They are possessed of fundamental rights which the State must respect, just as they themselves must respect their obligations to the State. In our system, students may not be regarded as closed-circuit recipients of only that which the State chooses to communicate. They may not be confined to the expression of those sentiments that are officially approved. In the absence of a specific showing of constitutionally valid reasons to regulate their speech, students are entitled to freedom of expression of their views… A student’s rights, therefore, do not embrace merely the classroom hours. When he is in the cafeteria, or on the playing field, or on [513] the campus during the authorized hours, he may express his opinions, even on controversial subjects like the conflict in Vietnam, if he does so without “materially and substantially interfer[ing] with the requirements of appropriate discipline in the operation of the school” and without colliding with the rights of others… Under our Constitution, free speech is not a right that is given only to be circumscribed that it exists in principle but not in fact. Freedom of expression would not truly exists if the right could be exercised only in an area that a benevolent government has provided as a safe haven for crackpots. The Constitution say that Congress (and the States) may not abridge the right to free speech. This provision means what it says.

As we have discussed, the record does not demonstrate any facts which might reasonably have led school authorities to forecast substantial disruption of or material interference with school activities, and no disturbances or disorders on the school premises in fact occurred. The petitioners merely went about their ordained rounds in school. Their deviation consisted only in wearing on their sleeve a band of black cloth, not more than two inches wide. They wore it to exhibit their disapproval of the Vietnam hostilities and their advocacy of a truce, to make their views known, and, by their example, to influence others to adopt them. They neither interrupted school activities nor south to intrude in the school affairs or the lives of others. They caused discussion outside of the classrooms, but no interference with work and no disorder. In the circumstances, our Constitution does not permit officials of the State to deny their form of expression.

**Minority Opinion**

The Court’s holding in this case ushers in what I deem to be an entirely new era in which the power to control pupils by the elected “officials of the state supported public schools…” in the United States is in ultimate effect transferred to the Supreme Court…whether students and teachers may use the schools at their whim as a platform for the exercise of free speech—“symbolic” or “pure”—and whether the courts will allocate to themselves the function of deciding how the pupils’ school day will be spent…I have never believe that any person has a right to give speeches or engage in demonstrations where he please and when he pleases. This Court has already rejected such a notion. In *Cox v. Louisiana*, 379 U.S. 536, 554 (1965), for example, the Court clearly stated that the rights of free speech and assembly “do not mean that everyone with opinions or beliefs to express may address a group at any public place and at any time.”

…detailed testimony by some of them shows their armbands caused comments, warnings by other students, the poking of fun at them, and a warning by an older football player that other, non-protesting students had better let them alone. There is also evidence that teacher of mathematics had his lesson period practically “wrecked” chiefly by disputes with Mary Beth Tinker, who wore her armband for her “demonstration.” Even a casual reading of the record shows that this armband did divert students’ minds from their regular lessons, and that talks, comments, etc., made John Tinker “self-conscious” in attending school with his armband. While the absence of obscene remarks or boisterous and loud disorder perhaps justifies the Court’s statement that the few armband students did not actually “disrupt” the classwork, I think the record overwhelmingly shows that the armbands did exactly what the elected school officials and principals foresaw they would, that is, took the students’ minds off their classwork and diverted them to thoughts about the highly emotional subject of the Vietnam War. And I repeat that if the time has come when pupils of state-supported schools, kindergartens, grammar schools or high schools, can defy and flout orders of school officials to keep their minds on their schoolwork, it is the beginning of a new revolutionary era of permissiveness in this country fostered by the judiciary… The truth is that a teacher of kindergarten, grammar school or high school pupils no more carries into a school with him a complete right to freedom or speech and expression than an anti-Catholic or anti-Semite carries with him a complete freedom of speech or religion in a Catholic church or Jewish synagogue. Nor does a person carry with him into the United States Senate or House or into the Supreme Court, or any other court, a complete constitutional right to got into those places contrary to their rules and speak his mind on any subject he pleases. It is a myth to say that any person has a constitutional right to say what he please, where he pleases and when he pleases.

Of course students, like other people, cannot concentrate on lesser issues when black armbands are being ostentatiously displayed in their presence to call attention to the wounded and dead of the war, some of the wounded and the dead being their friends and neighbors. It was, of course, to distract the attention of other students that some students insisted up to the very point of their own suspension from school that they were determined to sit in school with their symbolic armbands. The schools of this Nation have undoubtedly contributed to giving us tranquility and to making us a more law-abiding people. Uncontrolled and uncontrollable liberty is an enemy to domestic peace. We cannot close our eyes to the fact that some of the country’s greatest problems are crimes committed by the youth, too many of school age. School discipline, like parental discipline, is an integral and important part of training our children to be good citizens—to be better citizens. Here a very small number of students have crisply and summarily refused to obey a school order designed to give pupils who want to learn the opportunity to do so.

It is no answer to say that the particular students here have not yet reached such high points in their demands to attend classes in order to exercise their political pressures. Turned loose with lawsuits for damages and injunctions against their teachers as they are here, it is nothing but wishful thinking to imagine that young, immature students will not soon believe it is their right to control the schools rather than the right of the States that collect the taxes to hire the teachers for the benefit of the pupils. This case, therefore, wholly without constitutional reasons in my judgment, subjects all the public schools in the country to the whims and caprices of their loudest-mouthed, but maybe not their brightest, students. I, for one, am not fully persuaded that school pupils are wise enough, even with this Court’s expert help from Washington, to run the 23,390 public school systems in our 50 states.

**Hazelwood School District v. Kuhlmeier**

No. 86-836

SUPREME COURT OF THE UNITED STATES

484 U.S. 260

Argued October 13, 1987

Decided January 13, 1988

Respondents, former high school students who were staff members of the school’s newspaper, filed suit in Federal District Court against petitioners, the school district and school officials, alleging that respondents’ First Amendment rights were violated by the deletion from a certain issue of the paper of two pages that included an article describing school students’ experiences with pregnancy and another article discussing the impact of divorce on students at the school. The newspaper was written and edited by a journalism class, as part of the schools’ curriculum. Pursuant to the schools’ practice, the teacher in charge of the paper submitted page proofs to the school’s principal, who objected to the pregnancy story because the pregnant students, although not named, might be identified from the text, and because he believed that the article’s references to sexual activity and birth control were inappropriate for some of the younger students. The principal objected to the divorced article because the page proofs he was furnished identified by name (deleted by the teacher from the final version) a student who complained of her father’s conduct, and the principal believed that the students’ parents should have been given an opportunity to respond to the remarks or to consent to their publication. Believing that there was not time to make necessary changes in the articles if the paper was to be issued before the end of the school year, the principal directed that the pages on which they appeared be withheld from publication even though other, unobjectionable articles were included on such pages. The District Court held that no First Amendment violation had occurred. The Court of Appeals reversed.

Held: Respondents’ First Amendment rights were not violated.

1. First Amendment rights of students in the public schools are automatically coextensive with the rights of adults in other settings, and must be applied in light of the special characteristics of the school environment. A school need not tolerate school speech that is inconsistent with its basic educational mission, even though the government could not censor similar speech outside the school.
2. The school newspaper here cannot be characterized as a forum for public expression. School facilities may be deemed to be public forums only if school authorities have by policy or by practice opened the facilities for indiscriminate use by the general public, or by some segment of the public, such a student organizations. If the facilities have instead have reserved for other intended purposes, communicative or otherwise, then no public forum has been created and school officials may impose reasonable restrictions on the speech of students, teachers and other members of the school community. The school officials in this case did not deviate from their policy that the newspaper’s production was to be part of the educational curriculum and a regular classroom activity under the journalism teacher’s control as to almost every aspect of publication. The officials did not evince any intent to open the paper’s pages to indiscriminate use by its student reporters and editors, or by the student body generally. Accordingly, school officials were entitled to regulate the paper’s contents in any reasonable manner.
3. The standard for determining when a school may punish student expression that happens to occur on school premises is not the standard for determining when a school may refuse to lend its name and resources to the dissemination of student expression. *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503, distinguished. Educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities so long as their actions are reasonably related to legitimate pedagogical concerns.
4. The school principal acted reasonably in this case in requiring the deletion of the pregnancy article, the divorce article and the other articles that were to appear on the same pages of the newspaper.