TINKER V. DES MOINES (1969)

Background of the Case

In 1965, the Vietnam War continued to intensify, and hundreds of soldiers already had been killed in action. Thousands more were wounded or missing. As the war went on, many Americans protested U.S. involvement. Public demonstrations against the war became more and more popular across the country, especially around universities and other school settings. Two students in Des Moines, Iowa—John Tinker, 15, and his sister, Mary Beth Tinker, 13—decided they wanted to protest the war, too.

By December 1965, the Tinkers had met with other students and adults and came up with a plan to protest the Vietnam War. The students planned to wear 2-inch black armbands with peace signs to school as a form of protest. However, before the planned protest occurred, school officials found out. In response, the school implemented a policy that stated anyone who wore a black armband to school would be asked to remove it and would be suspended if they chose not to comply. Knowing they risked suspension, the students chose to go ahead with the protest anyway.

When Mary Beth Tinker arrived at her junior high school wearing the black armband, she was asked to remove it and ultimately was suspended for violating the school's policy. John Tinker and Christopher Eckhardt, both in high school, also wore their armbands to school. They were suspended and sent home. In total, five students were suspended for wearing the black armbands in violation of school policy. According to the school, the students would not be allowed to return until they agreed to remove their armbands. The students later returned to the school without armbands, but they had decided to file a lawsuit. On behalf of their children and represented by the Iowa ACLU, the Tinkers and Eckhardts sued the Des Moines Independent Community School District for violating the students' First Amendment rights.

Case Issue

Does prohibiting students from wearing armbands as a form of protest in a public-school setting violate their First Amendment rights to freedom of speech and expression?

Lower Courts' Decisions

The U.S. District Court of Iowa sided with the school, stating the school was right to prevent students from wearing the armbands in order to avoid a disturbance. The case later was appealed to the U.S. Court of Appeals, 8th Circuit. This court's decision was divided, so the original decision stood, and the case was sent to the Supreme Court on appeal.

The Supreme Court's Decisions

The *Tinker v. Des Moines* case reached the Supreme Court in 1969, where the court ruled in favor of the Tinkers with a 7–2 decision. The majority opinion stated that prohibiting students from wearing armbands to school as a form of protest violated their First Amendment rights. The district argued the armbands would distract other students, but the Supreme Court's response stated any public educational setting trying to censor students' speech or expression must prove that the speech interferes significantly with the school's ability to maintain order.

Excerpts From the Majority Opinion

Justice Abe Fortas delivered the opinion of the court. "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" (Tinker v. Des Moines).

"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" (Tinker v. Des Moines).

"[The student] may express his opinions, even on controversial subjects . . . if he does so without materially and substantially interfering with the requirements of appropriate discipline in the operation of the school. . . . But conduct by the student, in class or out of it, which . . . for any reason materially disrupts classwork or involves substantial disorder or invasion of the rights of others is, of course, not immunized by the constitutional guarantee of freedom of speech" (Tinker v. Des Moines).

Sources:

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