

TINKER V. DES MOINES

Background of the Case:

In 1965, the Vietnam War continued to intensify, and hundreds of soldiers had been killed in action, and thousands others were wounded or missing. As the war continued, many Americans protested American involvement. Public demonstrations against the war became more and more popular around universities and school settings across the country. Like many other students, John Tinker, age 15, and his sister, Mary Beth Tinker, age 13, from Des Moines, Iowa, decided they, too, wanted to protest against the war. By December 1965, the Tinkers met with other students and adults to plan a protest against the Vietnam War. The students planned to wear 2-inch black armbands to school as a form of protest. However, before the planned protest occurred, school officials found out and created a policy stating anyone wearing a black arm band to school would be asked to remove it and suspended if they chose not to comply. Knowing they risked suspension, the students chose to go ahead with the protest. Mary Beth Tinker, who was in junior high at the time, chose to wear the armband despite the new policy. When she arrived at the school, she was asked to remove the arm band and, when she refused, she was suspended for violating the school's policy. John Tinker and Christopher Eckhardt, both in the high school, also wore their armbands to school, and they, too, were suspended and sent home. In total, five students were suspended for wearing the black armbands and violating school policy. According to the school administration, students would not be allowed to return to school until they agreed to remove their armbands. The students later returned to the school without armbands but decided to file a lawsuit. On behalf of their children, the Tinkers and Eckhardts sued the Des Moines Independent Community School District for violating the students' First Amendment right. They were represented by the Iowa ACLU and its attorneys.

Issue:

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

Lower Courts Decisions:

The U.S. District Court of Iowa sided with the school stating the school was in the right to prevent students from wearing armbands in order to avoid a disturbance. The case was later appealed to the U.S. Court of Appeals for the 8th Circuit. The Court of Appeals' decision was divided so the original decision remained, and it was appealed to the United States Supreme Court.

Supreme Court's Decision:

The *Tinker v. Des Moines* case reached the Supreme Court in 1969 where they ruled in favor of the Tinkers with a 7-2 decision. The Court ruled in favor of the students stating that prohibiting students from wearing armbands to school as a form of protest violated their First Amendment right to freedom of speech. The district argued that the armbands would cause a distraction to the students and the Supreme Court responded by stating that any public educational setting trying to censor free speech must prove that the speech was significantly interfering with the school's ability to maintain order.

Excerpts From 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*, 1969).

Justice Fortas followed with more on free speech in public schools: "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."

". . . [H]e may express his opinions 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 which for any reason materially disrupts classwork or involved substantial disorder . . . is, of course not immunized by the constitutional guarantee of freedom of speech" (*Tinker v Des Moines*, 1969).

Sources:

American Civil Liberties Union. (n.d.). *Tinker v. Des Moines-Landmark Supreme Court Ruling On Behalf Of Student Expression*. <https://www.aclu.org/other/tinker-v-des-moines-landmark-supreme-court-ruling-behalf-student-expression>

Fortas, A. & Supreme Court of The United States. (1968) *U.S. Reports: Tinker v. Des Moines School Dist.*, 393 U.S. 503. [Periodical] Retrieved from the Library of Congress, <https://www.loc.gov/item/usrep393503/>

Lannacci, N. (2017, February 24). *Tinker v. Des Moines: Protecting Student Free Speech*. National Constitution Center. <https://constitutioncenter.org/blog/tinker-v-des-moines-protecting-student-free-speech>

Waples, K., Lamb, P., Piper, K., Singh, B., (2019). *Foundational Documents and Court Cases Reader*. Bedford, Freeman, & Worth.