

Freedom of Speech in High School

**Pangel v. Bend-Lapine school district
169 Ore. App. 376**

Facts:

Chris Prangle was a high school student in the Bend-Lapine School District. He decided to distribute an underground newspaper called the "Outsiders". The motivation for the newspaper was to express his concern about the structure of education and the problems that were created. Chris wrote, "Schools are breeding ground for hatred and segregation. Students are persecuted by their peers, judged by their appearances and treated differently because of them. Cliques dominate their surroundings, and torment those who don't fit in.... the teachers preach nothing more than conforming to the "norm" and obeying authority when we reach the "REAL WORRLD", slowly destroying each young mind which enters the public schools system." Chris called upon his fellow students to use a top ten list "against the forces that be in our society." The list included

- Citizen arrest of administrators
- Feeding snake bit antidote or Visine to someone to make them vomit or have to use the restroom
- Deposit some very disgusting smelling liquid in the school commons
- Collect teacher's signatures
- Epoxy glue any lock you can come to, aside from lockers
- Blow things up like toilets making sure not to hurt anyone
- Make bomb threats
- Sabotage the school intercom system
- Take out porn or homosexual adds on teachers.

Chris was expelled on May 7, 1997 and allowed to enter back into school in September of 1997 on probation with a plan.

Cases:

Kuhlmeir:

- Students constitutional rights were not violated when school limited speech related to controversial articles in school newspaper dealing with pregnancy and the impact of divorce.
- The rights of students in public schools are not automatically coextensive with the rights of adults in other settings.
- A school need not tolerate student speech that is inconsistent with its basic educational mission even though the government could not censor similar speech outside the school.

Tinker

- The court held that the discipline of students for wearing black armbands to protest the Vietnam War violated the students First Amendment rights since no disruption occurred.
- Students may express opinions even on controversial subjects like the conflict in Vietnam, if he does so without materially and substantially interfering with the requirements of appropriate discipline in the operation of the school and without colliding with the rights of others.

Fraser

- The court held that disciplining a student for delivering a nominating speech at a school assembly that contained lewd and offensive language did not violate the students' constitutional rights.
- The case was distinguished from Tinker in that the court recognized a student's freedom to express an unpopular and controversial viewpoint but that must be balanced against our society's interest in teaching the boundaries of socially appropriate behavior.

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Questions

Pre lesson Questions

1. What is freedom of speech?
2. When if ever should speech be limited?
3. Should there be a difference between what a student can express in school and what an adult can express. If so, what is the difference?

Go over the facts of the case.

- What facts are the most compelling?
- What stands out to you? Does any part of the speech shock you?

Questions related to the Cases

1. Here is the law. (State the holdings in Frazer, Tinker and Kuhlmeir.) Can we put these cases on a continuum? Where does this case fit it? Is it inside the spectrum? From our list of facts, which facts fit where?

Wrap Up

How would you decide this case? Is it right that student speech is more limited than adults?

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Issue:

- 1) Did the trial court error in not allowing the issuance of a writ?
- 2) Should the school be allowed to keep expulsion on the students record when the student was expelled for distributing an underground newspaper?

What happened at trial? The action of the school district was upheld.

How did this case get to the Oregon Supreme Court?

1. **Issuance of a Writ.** The Plaintiff's served a civil summons on the district. The district court ruled that the request for the writ was not filed timely since it must be filed within 60 days of the decision or determination sought to be reviewed. The Plaintiffs argued that the clock started ticking after the plan to return Prangle to school was determined. The School District argued that the clock started ticking when he was expelled.

2. **The 42 USC Section 1983 Claim:** Since the writ could not be issued, the court reviewed if Chris' rights were violated under the federal constitution.

Arguments:

School District: Three cases were used to illustrate that the first Amendment rights of expression must comport with the ability of schools to carry out their education mission.

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Plaintiff's Argument:

Plaintiffs argue that the expulsion can not remain on Chris' record because the district did not separate the charges against him but punished him with one single penalty. The Plaintiffs support their argument with a case of an untenured teacher who was not rehired based on unpopular speech expressed at a radio station. The case was remanded to the district court to determine if the unpopular speech was the reason the teacher was not rehired.

Who Won?

The School District won. The court determined that the expulsion should not be expunged from Chris' record.

How the Court Explained its Decision

Chris advocated specific methods for causing personal injury, property damage and the disruption of school activities. He described where to obtain the necessary materials to engage in some of the acts that he advocated. His speech was intended to disrupt and can therefore be limited. The court did not buy the Plaintiff's argument since it was not applicable to a student in high school.

Dissent:

Justice Armstrong felt that the district violated Chris's First Amendment Rights under 42 USC 1983. He cites Tinker which says, "A student may express opinions at school, even on controversial subjects, so long as he or she does so without materially and substantially interfering with the requirements of appropriate discipline or colliding with the rights of others." Armstrong says

1. Chris was expelled because of vulgar and threatening language. The vulgarity of the language is no different from what is presently common in many other sources.
2. In terms of the threatening language, it was not reported that the language disrupted the school.
3. The listing of teacher's home numbers was not against district policy.
4. There was no evidence that anyone planned to carry out the suggested conduct.

Speech is often disconcerting and that is not a basis to limit it. He argues that his rights were violated.

Application

1. This a case that takes established constitutional law and tries to fit the facts into it. It is important that the students understand the application of law to fact, the spectrum of the law and the controversies that exist.
2. During the discussion, it may be useful to change the facts to see what the response would be. Making the facts less obvious creates different results. What if there wasn't a how to guide to making bombs and making people vomit? What if the student was just trying to express his disappointment with school and suggested that everyone skip school on Friday. Should he be expelled for that?
3. This case also brings up personal interests for students. They should think critically about the law and how the law treats them differently than adults.