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NC YMCA Youth & Government 2022 Court of Appeals Cases

Acknowledgments:

Court Case 1: White, Byron Raymond, and Supreme Court Of The United States. U.S. Reports: Hazelwood School District v. Kuhlmeier, 484 U.S. 260 . 1987.

Court Case 2: Roper v. Simmons, 543 U.S. 551 (2005).

North Carolina
YMCA YOUTH &
GOVERNMENT

Hazelwood School District v. Kuhlmeier (1988)

Argued: October 13, 1987

Decided: January 13, 1988

Background

The First Amendment protects the right to free speech and free press. This means that people have the right to express themselves without interference or punishment from the government. This freedom is one of the fundamental rights at the heart of the U.S. political system. It helps people obtain information, share ideas, make decisions, and communicate those decisions to the government and each other. The First Amendment applies to all levels of government—federal, state, and local. It protects expression of popular and unpopular, even offensive, ideas.

The freedom of speech is not absolute, however. The government can generally limit the time, place, and manner of speech. (For example, a town can require people to obtain a permit to hold a protest march, limit the hours during which loudspeakers may be used, or impose some restrictions on signs). With few exceptions, however, the government cannot limit or punish speech based on what is being said.

The freedom of press protects from government censorship of media (e.g., newspapers, magazines, books, radio, television, and film). This means that the government cannot attempt to censor publications before they are published unless they would 1) cause certain, serious harm and 2) that harm could only be stopped by preventing the publication from being published.

There are some special places where the rules about free speech are different, including prisons, schools, and the military. The U.S. Supreme Court has ruled that public schools (which are run by the government) can limit speech more than the government can outside of school. Places outside of schools, where First Amendment rights are traditionally exercised, are called "public forums." Students do have some free speech rights in schools, but student speech can also be limited when it disrupts the learning environment or interferes with rights of others.

Facts

In May 1983, students in the Journalism II class at Hazelwood East High School in St. Louis, Missouri, generated the final edition of their school paper, *Spectrum*. As was customary, they submitted the paper to their adviser, who gave the principal, Robert Reynolds, the opportunity to review the paper before publication.

When Reynolds reviewed the paper, he found two articles that concerned him. One article was about teen pregnancy and quoted pregnant students. Reynolds worried that others would be able to determine the identities of the pregnant teens and was concerned about mentions of sex and birth

control. In the second article, which was about divorce, he was concerned about negative comments from one student about her father.

Reynolds wanted the students to make changes in their articles, but he was afraid they would miss the deadline for publishing *Spectrum*. He decided to delete the two pages with the questionable articles (which also had other, non-offensive articles) and publish the remainder of the paper. He informed his superiors in the school system of this decision; they supported him wholeheartedly.

The journalism students felt that this censorship from the school authorities violated their First Amendment rights to a free press. The students sued the school district in federal court, and the U.S. District Court for the Eastern District of Missouri ruled against them. The students appealed their case to the U.S. Court of Appeals for the Eighth Circuit. This court reversed the decision of the lower court, saying that the students' First Amendment rights were violated. The school appealed that decision, and the Supreme Court of the United States agreed to hear the case.

Issue

Is a student newspaper a public forum? Did Principal Reynolds' removal of portions of the Hazelwood East High School student newspaper violate students' First Amendment rights?

Constitutional Amendment and Supreme Court Precedents

- **First Amendment to the U.S. Constitution**

> "Congress shall make no law… 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."

- *Tinker v. Des Moines* (1969)

Students wore black armbands to school to protest the Vietnam War and were suspended for doing so. The Supreme Court ruled that the school's actions violated the students' First Amendment rights. They said that students do not "…shed their constitutional rights to freedom of speech or expression at the schoolhouse gate…." The Court decided that if a school wants to prohibit a particular form of expression, it must show that the speech would substantially interfere with the discipline or operation of the school or interfere with other students' rights.

- *Bethel v. Fraser* (1986)

At a school assembly, a student made a speech that included sexual innuendo and references. He was suspended for giving the lewd speech. The Supreme Court ruled that his First Amendment rights were not violated. The Court emphasized that students do not have the same First Amendment rights as adults. It explained that school officials may prohibit the use of lewd, indecent, or plainly offensive language, even if it is not obscene. Schools have an interest in

preventing speech that is inconsistent with their "basic educational mission" and "teaching students the boundaries of socially inappropriate behavior." In addition, school officials should be able to maintain order during a school-sponsored educational program.

Arguments for Hazelwood (Petitioner)

- The First Amendment rights of students in public schools are not necessarily equal to those of adults outside of schools.

- Under *Bethel v. Fraser*, the school may limit student speech if it is inconsistent with the school's basic educational mission. That mission includes protecting vulnerable students and limiting student exposure to material that is inappropriate for their level of maturity.

- The Hazelwood East High School newspaper is not a public forum—it is a school-sponsored activity. The students produce the newspaper as part of a journalism class during the school day, and it is routinely submitted to the adviser and principal for approval. The purpose of the newspaper is educational, not to report the news.

- As a class that students take for credit, the newspaper is part of the school curriculum. The school must have control over its curriculum. This control enables the school to ensure that students learn what the class is designed to teach.

- Students, parents, and members of the public might reasonably believe that the school newspaper speaks for the school. If the school could be perceived as endorsing the message in the newspaper, then the school should have the power to limit that message when it could be harmful.

- The speech in this case is different from the speech in *Tinker*—there, the students were making individual, political statements. No one could assume that the school endorsed that message. Here, the school name is printed right on the newspaper.

Arguments for Kuhlmeier (Respondent)

- Under *Tinker v. Des Moines*, schools may only prohibit student speech if it would substantially interfere with discipline or operations or interfere with other students' rights. The newspaper stories in this case would do neither.

- The articles that were removed were not obscene or defamatory. They were not disruptive to the school's ability to maintain discipline.

- School newspapers can be both part of the curriculum and a public forum. School newspapers are operated by the students and intended to convey student viewpoints. They can be distributed outside the school. A principal should, therefore, have limited power to interfere with the publication of the newspaper, even if it offends them.

- Students are in the best position to know when schools are mismanaged or ineffective. Student newspapers are the best way to broadcast student complaints about policies or learning conditions. This type of speech should be protected because it is at the core of American democracy. Administrators should not be able to suppress student criticisms.

- The principal's actions were too broad because he also deleted articles to which he had no objection. The school could have addressed the principal's concerns in other ways.

- Allowing a school to censor any speech that conflicts with its educational message is too broad. That would give schools blanket authority to censor any student speech that was remotely controversial.

Decision

The Supreme Court ruled against the students in a 5–3 decision. Justice White wrote the majority opinion, joined by Chief Justice Rehnquist, and Justices Stevens, O'Connor, and Scalia. Justice Brennan wrote a dissenting opinion, which was joined by Justices Marshall and Blackmun.

Majority

The Court concluded that the First Amendment allows school officials to exercise reasonable authority over the content of school-sponsored publications.

The justices in the majority first considered whether school-sponsored student newspapers are public forums. Classic public forums are streets, parks, and other locations that "have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions." Many First Amendment cases begin with what has been called "forum analysis." If the Court had found the school to be a public forum, school officials would not have been allowed to limit the content of the newspaper. The justices said that school facilities are only considered to be public forums when those facilities are open for unlimited use by the general public. The school newspaper in this case was not open to the contribution by everyone in the community but was instead published as part of a journalism class. Therefore, its primary function was for educational purposes, and the newspaper did not constitute a public forum.

The Court next emphasized that the First Amendment rights of students in public schools are not necessarily equal to those of adults outside of schools. The Court decided that the issues involved in this case differ from those in *Tinker v. Des Moines*. That case was about students' personal expression that happened to occur in school. This case, however, is about school officials' control over "school-sponsored publications … and other expressive activities that students, parents, and members of the public might reasonably perceive to bear the [approval] of the school." *Tinker* asked whether schools must tolerate certain student speech, while this case questioned whether schools must endorse student speech that may conflict with the values they are trying to teach.

The Supreme Court concluded that the First Amendment does not force schools to endorse student speech in their school-sponsored publications. School officials have control over these publications in order to ensure that students learn appropriate lessons and avoid exposure to inappropriate materials. They can also try to make sure that the views expressed are not erroneously attributed to the school. Therefore, as long as the school officials' editorial actions are related to legitimate concerns about the school learning environment, they do not offend the First Amendment.

Dissent

In his dissenting opinion, Justice Brennan acknowledged that students' free speech rights in public schools are not necessarily equal to free speech rights outside of school. However, he also argued that students do retain some free speech in schools. There must be a balance struck between the free expression rights of students and the interests of school officials in maintaining order and discipline. He said *Tinker* already established that balance. School officials must refrain from interfering with student speech unless it causes a "material and substantial disruption." He argued that "public educators must accommodate some student expression even if it offends them or offers views or values that contradict those the school wishes to inculcate."

Impact

The decision in *Hazelwood v. Kuhlmeier* remains the precedent for cases involving student press. School administrators may exercise reasonable editorial control over school publications. This has been extended to online publications as school newspapers and yearbooks have increasingly moved to online platforms. In addition, it is one of the four Supreme Court cases that spell out the First Amendment rights of public K–12 students have. In 2007, 19 years after the *Hazelwood* decision, the Court applied this precedent in *Morse v. Frederick*. In this case the Court decided that a student could be disciplined for unfurling a banner stating "Bong Hits 4 Jesus" during a school-sanctioned activity because it could be viewed as advocating illegal drug use.

Roper v. Simmons

Argued: October 13, 2004

Decided: March 1, 2005

Facts

In September of 1993, Christopher Simmons broke into the suburban St. Louis home of Shirley Crook with the intention to rob and possibly kill her. Simmons and a friend tied the victim up with duct tape and drove her to a nearby state park. At the park, Simmons pushed the victim, who was still alive, off of a bridge and into the Meramec River where she drowned. Simmons was 17 years old at the time of the murder. Before the crime, he had told several of his friends of the plan to burglarize a home and kill the occupants, noting that they could do it and "get away with it" (not get charged for it) because they were juveniles. [1]

Simmons and his friends were arrested the following day, and Simmons confessed on videotape at the police station. He even agreed to re-enact the crime on videotape and returned to the park and demonstrated where Mrs. Crook had been pushed from the rail bridge. At trial the jury easily found him guilty. During the sentencing hearing the defense attorneys asked the jury to use Simmons' age and the fact that he had no prior convictions as mitigating factors and not give Simmons the death penalty. However, the jury focused on the brutal and aggravated nature of the crime and sentenced Simmons to death by lethal injection.

Simmons' case was appealed, citing ineffective trial support. His age and thus impulsiveness, along with a troubled background were brought up as issues. The trial court upheld the jury's death sentence. The Missouri Supreme Court upheld the conviction and the U.S. Supreme Court denied review. Simmons' attempt at legal relief from the federal courts (habeas corpus) was also denied.

However, in light of a 2003 U.S. Supreme Court ruling in *Atkins v. Virginia* (2002) that overturned the death penalty for the mentally retarded, the Missouri Supreme Court reconsidered Simmons' case. In an unusual move, the Missouri Supreme Court concluded that, "a national consensus has developed against the execution of juvenile offenders" and sentenced Simmons to life imprisonment without parole.

The State of Missouri appealed the decision to the U.S. Supreme Court. On January 26, 2003, the U.S. Supreme Court granted certiorari (agreed to hear the case) and ordered oral arguments in the case *Roper v. Simmons*.

Issue

Does the Eighth Amendment prohibit the execution of juveniles who commit capital crimes prior to turning 18 years of age?

Precedents

- **Tropp v. Dulles (1958)**

While this is not a death penalty case, the Supreme Court interpreted that the Eighth Amendment contained an "evolving standard of decency which marked the progress of a maturing society."

- **Ford v. Wainwright (1986)**

The Supreme Court banned the execution of mentally ill individuals.

- **Thompson v. Oklahoma (1988)**

The Supreme Court ruled it was unconstitutional to execute offenders aged 15 and younger at the time of their crimes.

- **Stanford v. Kentucky (1989)**

The Supreme Court held that it does not violate the Constitution to give 16 and 17 year olds the death penalty.

- **Penry v. Lynaugh (1989)**

The Supreme Court held that executing persons with mental retardation was not a violation of the Eighth Amendment.

- **Atkins v. Virginia (2002)**

The Supreme Court ruled it was unconstitutional to execute the mentally retarded.

Arguments for Roper

- Currently, death penalty sentences are done in a thoughtful and deliberative manner. A jury makes the decision on whether a 16 or 17 year old should be given the death penalty. At sentencing, the jury is given information that assists in their decision of whether the death penalty is an appropriate punishment. During sentencing the defendant's age is taken into consideration along with other pertinent information. The fact that Simmons would be only the second juvenile executed in Missouri is further proof that juries only use the death penalty for the worst offenders.

- There is not sufficient evidence to determine that a national consensus has emerged against executing 16 and 17 year olds. Since *Stanford v. Kentucky* in 1989, few states have raised the age for capital punishment. Only Indiana, Montana, South Dakota, and Wyoming have passed legislation that has raised the age for death penalty eligibility.

- The research into adolescent brain development does not provide any definitive conclusions about the reasoning capabilities of teenagers. Though the American Psychological Association (APA) claims that there is scientific evidence showing that juveniles do not have the capacity to take moral responsibility for their decisions, this same organization has made contradictory claims in past cases. For example, in *Hodgson v. Minnesota* (1990), the APA said there was research evidence to show that by age 14-15, adolescents gain adult-like abilities to think logically about moral decisions and understand social rules and laws.

- The *Atkins v. Virginia* (2002) case in which the Court decided it violated the Eighth Amendment to execute the mentally retarded is not an appropriate precedent. Sixteen and 17 year old offenders should not be placed in the same category with the mentally retarded. Age and maturity levels should be dealt with on a case-by-case basis. Age is just an arbitrary number; it does not magically transform a bad person into a good one.

- Some crimes are so horrible and horrific that the death penalty is the only appropriate sentence. Society is better served removing the worst criminals with the death penalty. This serves as deterrence to other youth offenders and gives a sense of relief to law-abiding residents.

- There is a potential problem that adult members of gangs could assign their 16 and 17 year old members to be "hit men" knowing that they will not face as harsh a penalty in the criminal justice system.

Arguments for Simmons

- In many cases, the horrific nature of the crimes committed by juveniles makes it difficult for juries to consider age as a mitigating factor. Jurors can become swayed by the atrocity of the crime itself and are then less able to take into account the offender's age as an explanation for the crime. Because of this problem, considering whether to use the juvenile death penalty on a case by case basis will not work.

- Just as was the case in *Atkins v. Virginia* (2002) when the Supreme Court ruled it was unconstitutional to execute the mentally retarded, there has been a shift in the use of the juvenile death penalty that reflects society's "evolving standards of decency." A national consensus has developed since *Stanford v. Kentucky* (1989) in which the majority of states do not support the use of the death penalty for juveniles. Currently, 30 states prohibit the juvenile death penalty, and 12 of those states have banned the death penalty completely. In addition, since 1989, five states that previously allowed the juvenile death penalty have banned its use, either through legislation or through judicial decision.

- Of the states that retain the juvenile death penalty, very few actually use this punishment. In the past 10 years, only three states have actually executed prisoners who committed crimes as juveniles: Oklahoma, Texas, and Virginia.

- In the international community, the majority of our allies condemn the use of the death penalty on juvenile offenders. Since 1990, the United States has been one of the only countries in the world to execute juveniles, along with Iran, Pakistan, Saudi Arabia, Yemen, Nigeria, the Democratic Republic of Congo, and China. Since that same time, each of these countries has stopped the use of the juvenile death penalty or publicly renounced the practice. Thus, there is a clear global opinion that the death penalty is too strong a punishment for offenders under the age of 18.

- There is research that shows that brain development, and specifically moral reasoning, is not fully developed until adulthood. Since the *Stanford v. Kentucky* (1989) decision, new neurological research has shown that the parts of the brain that regulate higher-order thinking capacities have not reached full development in 16 and 17 year olds. Other research shows that adolescents do not have the maturity and judgment necessary to fully weigh decisions and control their impulses. One indicator of this is that adolescents are statistically more likely to engage in reckless behavior than people of other age groups.

- The age 18 is an important benchmark in our society. When a young person turns 18 a host of added rights and responsibilities are awarded them. The majority of states do not allow people under the age of 18 to vote, serve on juries, or marry without parental permission. It is logical then that the age 18 should also be the marker of when a person can be held fully responsible for committing a crime.

Majority Decision

On March 1, 2005, the U.S. Supreme Court ruled by a vote of 5-4 that the use of the death penalty for juvenile criminals is unconstitutional. The Court determined that capital punishment for people who commit a crime before the age of 18 is in violation of the Eighth Amendment, which bans cruel and unusual punishment. Justice Kennedy issued the majority opinion, joined by Justices Breyer, Ginsburg, Souter, and Stevens. Justice Scalia, Chief Justice Rehnquist, and Justice Thomas dissented, and Justice O'Connor dissented separately.

Justice Kennedy supported the decision by referring to "evolving standards of decency." Since 1989, five states that previously allowed the juvenile death penalty have banned its use. Thirty states currently prohibit the juvenile death penalty and, in the past 10 years, only three states have executed prisoners who committed crimes as juveniles. Referring to the *Atkins v. Virginia* (2002) decision, Justice Kennedy reiterated that, "[i]t is not so much the number of these States that is significant, but the consistency of the direction of change" (pp. 11-12). Justice Kennedy also noted that juveniles are different than adults in that they do not have a fully developed sense of responsibility or identity. The majority of states do not allow people under the age of 18 to vote, serve on juries, or marry without parental permission. Further, Justice Kennedy cited consensus in the world community: "Our determination that the death penalty is disproportionate punishment for offenders under 18 finds confirmation in the stark reality that the United States is the only country in the world that continues to give official sanction to the juvenile death penalty" (p.21).

Dissent

In his dissent, Justice Scalia argued that there has not been consensus about whether to execute juveniles or not. He noted that a very small number of states have shifted their position on the juvenile death penalty in recent years, hardly making this a marker of consensus. Further, the "scientific and sociological studies" that find juveniles to be less capable of making reasoned decisions have not been proven to be methodologically sound, and other studies indicate that juveniles do possess the ability to make important, moral choices. Other laws that use 18 as the marker for important decisions are not relevant, since, "Serving on a jury or entering into marriage also involve decisions far more sophisticated than the simple decision not to take another's life" (p.14). Finally, the laws of other countries do not apply to the laws of our country; for other significant decisions, the United States has not looked to other countries for guidance. For example, "Most other countries—including those committed to religious neutrality—do not insist on the degree of separation of church and state that this Court requires" (p.19).

In her dissent, Justice O'Connor also argued that there has not been conclusive evidence to show that a "genuine national consensus" has emerged on prohibiting the juvenile death penalty. However, she disagreed with Justice Scalia's argument that the international community's stance on juvenile execution is irrelevant to this case, noting that a global consensus is an appropriate marker by which to gauge American standards of decency.

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[1] Herndon, Jennifer (July 2004) Brief for Christopher Simmons.