

## ***Morse v. Frederick (2007)*** **"BONG HiTS 4 JESUS"**

On January 24, 2002, the Olympic Torch Relay passed through Juneau, Alaska, on its way to the winter games in Salt Lake City, Utah. The torchbearers were to proceed along a public street in front of Juneau-Douglas High School (JDHS) while school was in session. Deborah Morse, the school principal, decided to permit staff and students to participate in the Torch Relay as an approved social event or class trip. Students were allowed to leave class to observe the relay from either side of the street. Teachers and administrative officials monitored the students' actions. Joseph Frederick, a JDHS senior, was late to school that day. When he arrived, he joined his friends (all but one of whom were JDHS students) across the street from the school to watch the event. Not all the students waited patiently. Some became rambunctious, throwing plastic cola bottles and snowballs and scuffling with their classmates. As the torchbearers and camera crews passed by, Frederick and his friends unfurled a 14 foot banner bearing the phrase: "BONG HiTS 4 JESUS."

The large banner was easily readable by the students on the other side of the street. Principal Morse immediately crossed the street and demanded that the banner be taken down. Everyone but Frederick complied. Morse took the banner and told Frederick to report to her office, where she suspended him for 10 days. Morse later explained that she told Frederick to take the banner down because she thought it encouraged illegal drug use in violation of established school policy. Juneau School Board Policy No. 5520 states: "The Board specifically prohibits any assembly or public expression that . . . advocates the use of substances that are illegal to minors." In addition, Juneau School Board Policy No. 5850 subjects "pupils who participate in approved social events and class trips" to the same student conduct rules that apply during the regular school program.

Frederick appealed his suspension, but the Juneau School District Superintendent upheld it, limiting it to time served (8 days). In a memo setting forth his reasons, the superintendent determined that Frederick had displayed his banner "in the midst of his fellow students, during school hours, at a school-sanctioned activity." He further explained that Frederick "was not disciplined because the principal of the school 'disagreed' with his message, but because his speech appeared to advocate the use of illegal drugs."

Frederick filed a federal civil rights action alleging that the school board and Morse had violated his First Amendment rights. The federal district court ruled in favor of the school board and Morse, concluding that neither had infringed Frederick's First Amendment rights because Morse reasonably interpreted the banner to promote illegal drug use - a message that directly contravened the school Board's policy with regard to drug abuse prevention.

Frederick appealed, and the federal appellate court reversed, concluding that Frederick's First Amendment rights were violated because the school punished Frederick without demonstrating that his "speech" (in the form of the banner) gave rise to a substantial risk of disruption.

Morse and the school board petitioned the United States Supreme Court to review the decision of the federal appellate court. The Supreme Court accepted the case to decide whether Frederick had a First Amendment right to display his banner.

### **Supreme Court Final Opinion:**

On June 25, 2007, the Supreme Court ruled 6-3 to overturn the appeals court decision. It rejected Frederick Morse's claim of First Amendment free speech rights and supported Principal Deborah Morse.

Chief Justice John Roberts, in writing for the majority, cited the Tinker case: "Our [the Court's] cases make clear that students do not 'shed their constitutional rights to freedom of speech at the schoolhouse gate.'" But, he added, "At the same time, we have held that the constitutional rights of students in public schools are not automatically coextensive with the rights of adults in other settings" and that the rights of students must be "applied in the light of the special characteristics of the school environment. Consistent with these principles, we hold that schools may take steps to safeguard those entrusted to their care from speech that can reasonably be regarded as encouraging illegal drug use. The First Amendment does not require schools to tolerate at school events student expression that contributes to those dangers."

### ***ON THE BACK, GIVE A QUALITY ANSWER FOR EACH QUESTION.***

- 1. Pretend that you are a justice sitting on the Supreme Court. In your opinion, what does the phrase "BONG HiTS 4 JESUS" mean?**
- 2. An issue in the *Morse v. Frederick* case is whether or not Joseph Frederick's action and those of his friends substantially interfered with or disrupted the high school's program. Do you believe his actions interfered with or disrupted the high school's program? Explain.**
- 3. In your opinion, does the First Amendment allow public schools to prohibit (stop) students from displaying messages, which the school could reasonably interpret as promoting the use of illegal drugs, at school-supervised events?**
- 4. What was the Supreme Court's final opinion in this case?**