

The Facts of the Case

J.C. v Beverly Hills Unified School District*

The Arguments

Plaintiff, J.C., and several other students gathered at a local restaurant. Plaintiff recorded a short video of her friends talking about a classmate, C.C. One of Plaintiff's friends called C.C. insulting names and used profanity about her in the description. During the video, J.C. is heard encouraging the students to continue to talk about C.C. In the evening on the same day, Plaintiff posted the video on the website "YouTube" from her home computer. She also contacted 5 to 10 students from the school and told them to look at the video. She also contacted C.C. and informed her of the video.

C.C. came to the middle school with her mother and spoke with the school counselor. She was crying and told the counselor that she did not want to go to class. The counselor spent some time counseling C.C. and convincing her to go to class. J.C. and the other students involved in the incident were called to the office. J.C. was suspended for 2 days. The father of the student who spoke on the video came to school and viewed the video and removed her from school for that day. It was estimated that approximately half of the 8th grade had seen the video.

J.C. argued that "if the publication of a student's speech does not take place on school grounds, at a school function, or by means of school resources, a school cannot punish the students without violating her First Amendment rights." Therefore she believed that her suspension from school was unconstitutional.

The Court noted that while the Supreme Court had not yet addressed a factual situation related to off-campus student speech, and cited that "majority of courts will apply Tinker where speech originating off campus is brought to school or to the attention of school authorities, whether by the author himself or some other means." [Remember that the Tinker case establishes that in order for speech at school to be regulated it must interfere with "the school's work or collides with the rights of other students to be secure and let alone" (393 U.S. at 508).]

The Court did note that...the video was reviewed at school. It was posted on a publicly available web site. The Plaintiff had contacted other students, included C.C. to tell them about the video. The comments made in the video increased the probability that a parent would call the video to the schools' attention.

** The Facts of the Case was excerpted from article by Nancy Willard, M.S., J.D., Center for Safe and and Responsible Internet Use, 2009.*

The Court's Decision

The Court's ruling upheld that although C.C. was upset and that students were removed from their classroom, there were not findings of a ripple effect in the classroom that disturbed instruction. Whether or not students were planning a physical assault on C.C. or that C.C. was planning to engage in physical violence was not evident, therefore there appeared to be no evidence that there would be a substantial disruption of school activities. The decision was in favor of the Plaintiff and the ruling stated that there was a violation of J.C.'s First Amendment rights by the suspension from school. ** The Facts of the Case was excerpted from article by Nancy Willard, M.S., J.D., Center for Safe and and Responsible Internet Use, 2009.*

Reaction to the Verdict

Although the Tinker case was cited throughout the decision, many believed that the decision was inconsistent with other cases that applied more directly to bullying. Those who disagreed with the Court's decision, cite that C.C. did incur emotional harm and that she only agreed to go back to class when she found out that the aggressors were being called to the office to be disciplined. Supporters of the verdict maintain that young people often say hurtful things and with limited maturity often, have emotional reactions over minor comments. They maintain that to suspend a student for making comments that did not lead to violence in any way and did not measure up to causing a disruption in educating students, should not be allowed.

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