

## ***Tinker v. Des Moines Independent Community School District (1969)***

**Argued:** November 12, 1968

**Decided:** February 24, 1969

### **Background and Facts**

In 1966, in Des Moines, Iowa, five students ages 13–16 decided to show that they disagreed with the Vietnam War. The students planned to wear black armbands to school for two weeks. The school district found out about the students' plan. Before the students wore the armbands, the school district announced that any student who wore a black armband would be suspended from school after the student's parents were called.

Mary Beth Tinker, an eighth grader, and John Tinker and Christopher Eckardt, both high school students, wore black armbands to school. All three teens were sent home for breaking the rule and told not to return until they agreed not to wear the armbands. Their parents sued the school district for violating the students' First Amendment right to free speech. The federal District Court dismissed the case and ruled that the school district's actions were reasonable to uphold school discipline. The U.S. Court of Appeals for the Eighth Circuit also found for the school. The Tinkers asked the U.S. Supreme Court to review that decision, and the Court agreed to hear the case.

### **Constitutional Question**

Does a rule prohibiting the wearing of armbands in a public school as a form of symbolic speech violate the students' First Amendment freedom of speech protections?

### **Arguments for Tinker (petitioner)**

- Students, whether in or out of school, are “persons” under the Constitution. They possess **essential rights** that the government must respect. This includes First Amendment freedom of speech protections.
- The **14<sup>th</sup> Amendment** protects people from state and local governments (including schools) violating their First Amendment right to free speech.
- Wearing the armbands was a form of speech. Even though the students did not use words, their actions (wearing the armbands) expressed their opinions about the war.
- The students' speech was not disruptive and did not violate any other student's rights. The school district gave no evidence that the armbands were a distraction or disrupted the learning process. Just because the schools were afraid that there might be a disruption is not enough to infringe students' speech.

- Schools are meant to act as a place for the discussion of different ideas. Allowing students to express their opinions is a key part of the educational process.

### **Arguments for Des Moines Independent Community School District (respondent)**

- Free speech rights do not apply to all speech. The First Amendment does not say that anyone may say anything, at any place, at any time. Schools are not an appropriate setting for protest.
- The purpose of a school is to teach certain subjects. The school district had a reasonable interest in making sure that learning is the focus of classrooms, so it acted appropriately when it banned the armbands.
- The Vietnam War is a controversial issue. Wearing the armbands could be an explosive situation that disrupts learning. It is the school district's duty to prevent disruptions to learning.
- Sharing controversial opinions in class or in school areas such as the hallways and lunchrooms, may lead to bullying or violence towards the protesting students. By banning the armbands, the school district hoped to prevent this behavior and protect the safety of all students.
- The school district did not ban all types of speech, just the armbands. They were banned because of their controversial nature and potential for major disruption. Students could still share opinions in other ways. For example, they could wear political messages such as "Vote for Candidate X" buttons.

### **Decision**

The Supreme Court ruled in favor of the students, 7–2. The justices said that students have their constitutional right to freedom of speech while in public schools. They said that wearing the armbands was a form of speech, because they expressed the students' views about the war. The Court said, "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 . . . ."

The Supreme Court emphasized that this does not mean that schools can never limit students' speech. If schools can reasonably predict that the speech would cause a **substantial** disruption to the discipline and educational function of the school, then schools may limit the speech. This has become known as the "**Tinker test**." In this case, though, there was no evidence that the armbands would disrupt the learning process or the rights of other students.

**Impact of the Case**

*Tinker v. Des Moines* is still an important decision about free speech rights in schools. Recently, the Tinker test has been used in cases that decided students could wear cancer awareness bracelets and that schools could prohibit students from displaying the Confederate flag.

**Glossary**

- **Infringe:** intruding on the rights of another.
- **Substantial:** major, serious, or considerable.
- **Sued:** used the legal process to force a person, company, organization, or government to give you something or do something.
- **Symbolic speech:** non-verbal actions that convey a message (e.g., burning the flag, sit-ins, and wearing political buttons).
- **Tinker test:** used by courts to decide whether student speech causes a substantial disruption to learning—if it does, the student speech may be prohibited.
- **Vietnam War:** From 1954 – 1975, the United States was involved in a war in Vietnam, a country in southwest Asia. The American people were deeply divided in their support for and against the war.

Additional information about *Tinker v. Des Moines*, including background at three reading levels, opinion quotes and summaries, teaching activities, and additional resources, can be found at <https://www.landmarkcases.org/>.