

***Tinker v. Des Moines*/ Summary of Decision**

In a 7-2 decision, the Supreme Court ruled in favor of the Tinkers. Justice Fortas wrote the majority opinion, ruling that students retain their constitutional right of freedom of speech while in public school. Justices Black and Harlan dissented.

The Court ruled that students are entitled to exercise their constitutional rights, even while in school. The justices reasoned that neither “students [n]or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” Because student expression is protected by the First Amendment even while in school, school officials must provide constitutionally valid reasons for regulating student expression.

The justification for the regulation must be more than “a mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint.” School officials must show that the expression would cause a “material and substantial disruption” with the discipline and educational function of the school. The Court decided that allowing the Tinkers to wear their armbands protesting the Vietnam conflict would not “substantially interfere with the work of the school or impinge upon the rights of other students.” Wearing the armbands was a “silent, passive expression of opinion” that did not involve any “disorder or disturbance,” and was unlikely to cause a “material and substantial disruption” in the school.

In addition, the justices noted that the school officials specifically targeted anti-war armbands but did not prohibit the wearing of any other symbols conveying a political message. Reasoning that “the prohibition of expression of one particular opinion ... is not constitutionally permissible,” they concluded that “school officials do not possess absolute authority over their students.”

In his dissenting opinion, Justice Black acknowledged that while the content of speech generally cannot be regulated or censored, “it is a myth to say that any person has a constitutional right to say what he pleases, where he pleases, and when he pleases.” According to Justice Black, the Tinkers’ armbands did indeed cause a disturbance by taking students’ minds off their class work “and divert[ing] them to thoughts about the highly emotional subject of the Vietnam War.” This was exactly what school officials were trying to prevent. Justice Black believed that the majority’s ruling was too restrictive on school officials, overly limiting their control over their schools, and subjecting public schools to “the whims and caprices of their loudest-mouthed ... students.”