

## Case Summary – Freedom of Expression and Public Schools

### Abstract

As a citizen of the United States, a person is entitled to certain unalienable rights which are outlined in the Constitution and Bill of Rights. The freedoms of expression and speech are two rights that American citizens use each day no matter what they are doing. Every person is entitled to their opinions and should have the right to express their beliefs wherever they are without fear of repercussions. Although a person can discuss whatever he or she chooses, one must continue to be mindful of the rights and opinions of others while doing so. In this case, a group of fundamental Christian high school boys, known as the God Squad, are suing the school board and principal of their school for suppressing their First Amendment rights of free speech, free expression, and free assembly. The students have the right to express their views but the school administration must be mindful of the safety of the individuals in the school. This case raises the question about student rights and their opportunity to convey what they believe.

### Background

After the 9/11 attacks, a group of boys, known as the God Squad, began a racist, anti-Semitic, anti-immigrant, and neo-fascist movement at their high school against anyone who does not align with fundamental Christian standards. The group is comprised of juniors and seniors who have a history of violence and bullying towards other students and faculty. The leader of the group, who calls himself “The Captain,” is almost the complete opposite and would be an honor student if he could control his disruptive behavior.

The tension between the God Squad and the school's administration begins when the group decides to wear their uniforms to school and in doing so, a controversy arises. The group's uniforms consist of black pants, black t-shirts, and a logo of a handgun and a knife in front of a Christian cross. During this same time, the God Squad releases their first newsletter which is mostly written by "The Captain" and contains statements detailing the "fight against the forces trying to destroy our country." "The Captain" identifies these "forces" as anyone who is not white or a fundamental Christian. Although his writings contain racist and neo-fascist comments and do not mention anything about specific violence towards other individuals, he implies that violence may occur as the God Squad was "marshalling their weapons and preparing for battle."

In order to protect faculty and students, the principal bans any God Squad activities on school grounds; including wearing uniforms, distributing the newsletter, attending school functions and clubs, and holding any unauthorized meeting on school property which is further detailed as three or more members of the group meeting together. The day after the ban is set in place the God Squad arrives at school and begins to hold an unauthorized rally. Numerous students surround the group and a shouting match takes place which is obviously escalating toward violence. The principal, accompanied by two unarmed school security officers and faculty members, impedes on the escalating situation and demands that "The Captain" and his group leave school grounds or be immediately expelled. "The Captain" claims that the God Squad is exercising their First Amendment right to freedom of speech and refuses to leave school grounds. The principal responds by expelling each member of the God Squad and

advised that they leave school grounds immediately or they will be arrested for trespassing. The God Squad continues to hold their rally.

Minutes later, police and news crews arrive to the scene. The principal had called the police in advance to make them aware as to what may happen and “The Captain” had alerted the news channels to ensure that the riot and the arrest of each member was documented and replayed on the evening news. Each God Squad member is charged with trespassing, inciting a riot, and disturbing the peace. They are each released to their parents for minimum bail pending a trial. “The Captain” is detained longer and has a larger bail but is later released.

Two days after the incident, the father of “The Captain,” a Christian lawyer, files a federal lawsuit against the school system and the principal on behalf of each member of the God Squad. The suite claims that the God Squad’s rights to freedom of expression, speech, and assembly had been violated and that each member was persecuted by police and falsely arrested. The lawsuit requests one million dollars in damages for each member of the group and an additional ten million dollars for “The Captain.” Also, the suite requests that the principal’s ban be lifted which would allow for the God Squad to participate in school activities.

### **Argument**

In this case, I’m going to take the side of the school system and the principal. The actions of the principal were necessary and within her scope of power. She needed to ensure the safety of all students, including members of the God Squad. Contrary to the claims of “The Captain” and his father, the God Squad was not exercising their basic First Amendment rights; instead they were inciting violence and attacking members of

the student body and faculty of the school. There are numerous case law examples to support the argument of the school system and the principal. Overall, the God Squad did not exercise their civil rights in the proper manner and put each student and faculty member at risk because of their negligent actions.

It is important to note that the views and opinions of the God Squad do not break any laws or infringe on any rights. Each person is entitled to their own opinion on any subject, including the make-up of the United States. The actions that the God Squad took in order to disseminate their views to other people are what introduce the issues of safety and legality.

The first legal issue in this scenario involves the uniforms the God Squad wore to school. Typically, uniforms and symbols of belief are not a breach of safety and do not impede on the rights of others. As the plaintiff would argue, a student has the right to wear what he or she wants under the protection of the First Amendment. For example, in the case of *Tinker v. Des Moines Independent Community School District* (1), it was ruled by the Supreme Court that the school's ban on armbands and the suspension of students who wore them were both unconstitutional. Also, since there was no immediate threat of violence if the students did wear the black armband, there was no need to suppress the right to free speech. However, case law has shown in certain cases that a ban of uniforms and symbols of belief is necessary in order to protect the safety of others. In *Hill v. Lewis* (2), the District Court of North Carolina ruled that the safety of students was more of a concern than protester's rights. In an event where school administrators believe that violence will occur because of a protest, the administrators are allowed to restrict student's rights. Also, in *Hill v. Lewis* the student body was made up of the

children of military personnel. The protest targeted these students and their beliefs which could have led to more riots and protests. *Hill v. Lewis* closely resembles the case at hand therefore the school administration had the right to ban the God Squad's uniforms from school grounds in order to protect the security of the students and faculty, some of which could have been in the minorities that the God Squad was targeting.

The second issue at hand in this case is the distribution of the newsletter which was created by the God Squad and distributed among students at the high school. The plaintiff's argument suggests that the God Squad was using the newsletter as a form of free speech and free expression. This is technically correct, as no student's opinions should be squandered solely because they do not align with what others believe or what the school system believes. First and foremost, the newsletter being distributed was not an authorized school publication and should not have been distributed on school grounds. The case summary does not cite this as an example as to why the principal banned the newsletter but even if it was not included in her reasoning, blatant remarks which are vulgar and offend others cannot be tolerated in an educational environment. For example, in *Bethel School District v. Fraser* (3) the Supreme Court ruled that administrators have the right to censor material that is "vulgar and offensive" and that "would undermine the school's basic educational mission." Clearly, the opinions expressed in the newsletter handed out by the God Squad were conveyed in a vulgar and offensive way and do not match up with the mission of the school system to equip each student to show equality towards all races and refrain from violence. Also, the opinion of the court in *Tinker* (4) states, "in order for the state in the person of school officials to justify prohibition of a particular expression of opinion under the First Amendment, it

must be able to show that its action was caused by something more than a mere desire to avoid discomfort and unpleasantness that always accompany an unpopular viewpoint.”

The suppression of the newsletter, and thus the opinions of the God Squad, was a necessary step to keep order in the school and to protect the safety of the God Squad, the student body, and faculty.

The third issue to be addressed is the administration’s ban on extracurricular activities and meetings held on campus. In order to grow academically and socially, students are often encouraged to attend after school functions such as clubs, sporting events, and dances. Students have the right to assemble and discuss anything they wish, even subjects which may be contentious. In *Tinker* (5), Justice Abe Fortas wrote in the majority opinion, “A student's rights, therefore, do not embrace merely the classroom hours. When he is in the cafeteria, or on the playing field, or on the campus during the authorized hours, he may express his opinions, even on controversial subjects...”

However, Justice Fortas adds onto his statement by saying, “...if he does so without ‘materially and substantially interfer[ing] with the requirements of appropriate discipline in the operation of the school’ [*Burnside v. Byars* (6)] and without colliding with the rights of others.” When discussing on school grounds, students must consider the rights of other people and must not be disruptive in their conversation. There is no way to know if the members of the God Squad would have been unruly if they attended any extracurricular activities but their past academic and behavior records indicate that they could have been disruptive and dangerous. The principal’s ban on disruptive behavior and after school events for the God Squad was put into place to protect others on campus while also protecting the normal processes that encompass a normal school day.

Finally, the plaintiff contends that the members of the God Squad were placed under false arrest and were mistreated by the police because of their “minority” status. Because of the disruption that was occurring and the possibility of further violence, the police needed to arrest the members of the God Squad. Additionally, the members of the God Squad are not considered “minorities” because of their race or their intentions. The fact that they are part of a small group of people does not mean that they are in the minority. Even if someone who was considered a minority was disturbing the peace in the fashion as the God Squad, they would have been treated in the same manner.

### **Conclusion**

In this case, it is clear that the principal and the school system were justified in their actions against the God Squad. The God Squad put the lives of others in danger and disturbed the order of the school system by not properly expressing their First Amendment rights. Previous cases such as *Tinker v. Des Moines Independent Community School District*, *Hill v. Lewis*, and *Bethel School District v. Fraser* can be considered case precedents and provide insight in regards to the legal issues involved in this case. In each precedent, students were attempting to exercise their right to freedom of speech and freedom of expression and the opinions outlined allow for insight on how opinions and beliefs may be legally expressed in an educational environment. The principal of the school must protect the safety and wellbeing of every individual on campus, from students to faculty. The actions taken by the God Squad did not peacefully express their views but instead placed everyone around them at risk. Their arrest was completely justified, as it prevented any riots from ensuing on school grounds and ensured the safety of all individuals. Each person has the First Amendment right to

express their own personal beliefs, but when violence becomes involved and the rights of others are infringed, corrective action becomes necessary in order to protect the welfare of everyone involved and keep the peace.

### **Case Law and Statutory Citations**

(1) 393 U.S. 503 (1969).

(2) 323 F. Supp. 55 (1971).

(3) 478 U.S. 675 (1986).

(4) 393 U.S. 503 (1969).

(5) 393 U.S. 503 (1969).

(6) 363 F.2d 744 (1966).