

Iowa Court Dismisses Student's Suit Claiming District Violated His Free Speech Rights When It Disciplined Him For Posting "Racially Charged" Tweet

The *Times-Republican* reports Marshall County District Court Judge Michael Moon has dismissed a suit brought by former Marshalltown High School (MHS) student Jordan Smith against Marshalltown Community School District (MCSD). Smith's suit alleged MCSD violated his free speech rights under Iowa Code and the Iowa Constitution when it suspended him from playing in three athletic games because he posted a "racially charged" tweet.

The tweet in question said, "I scored two goals for the white boys tonight #WP." His football coach, Aaron Shipley, viewed the message Smith posted on Smith's Twitter account. Smith's profile was a photograph depicting him and two MHS students dressed in white. The students made a gesture with their hands in the shape of the letter "W."

The photograph of Smith was taken on school grounds in May 2014. That day, MHS hosted a spirit day where all students were encouraged to wear white attire.

The meaning of the gesture and message were contested throughout Smith's July trial. School administrators alleged each referenced "white power." Smith testified the gesture referred to the color day. While explaining to the court the meaning of his message, Smith, a soccer player, said he used the term "white boys" because people of other races referred to the white players on the soccer team using that label.

Smith sought a declaratory judgment from the court, stating he did not violate the school district's good conduct policy, which administrators cited in their decision to suspend Smith from athletic participation. In his ruling, Judge Moon noted that school administrators have the authority to circumscribe speech in Iowa schools if they have reason to believe the speech would encourage

students to violate lawful school regulations or causes material and substantial disruption.

The judge pointed to the significance of previous racially charged incidents that heightened tension at MHS and in Marshalltown. He added that context matters. “Those incidents, together with the tension existing in the school, provided a reasonable context for administrators to anticipate and forecast future disruptions and to permit them to take necessary precautions,” he said. “School administrators were sensitive to any comment, post, T-shirt, symbol or other manifestation of racial bigotry that could act as a spark to ignite violence in the school.”

In Smith’s case, administrators’ actions were appropriate, Moon said.

Source: Times-Republican, 8/27/15, By Bennet Goldstein

[Editor’s Note: In August 2015, Legal Clips summarized a decision by the U.S. Court of Appeals for the Fifth Circuit, sitting en banc, in Bell v. Itawamba Cnty. Sch. Bd. holding that a Mississippi district did not violate a student’s First Amendment free speech rights when school officials disciplined the student for a video he created and posted online off-campus that contained threatening language directed at two teachers/coaches. The majority’s opinion (there were a number of concurring and dissenting opinions) held that the substantial disruption standard enunciated in Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503, 514 (1969), was controlling even though the student speech in question took place off-campus. Because it determined that the speech was subject to regulation by school officials under Tinker, the majority declined to reach the issue of whether the student could be disciplined based on his speech constituting a “true threat.”]