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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

JOSEPH FREDERICK,)
)
Plaintiff,) No.)
)
vs.)
)
DEBORAH MORSE and the JUNEAU)
SCHOOL BOARD,)
)
Defendants.)
-----)

COMPLAINT

Jurisdiction and Venue

1. The Plaintiff, Joseph Frederick, seeks redress for violations of his federal civil rights under 42 U.S.C. § 1983 and the First Amendment to the United States Constitution, and to his civil rights under state law as set out below. This court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question jurisdiction); 28 U.S.C. § 1343 (civil rights jurisdiction); 28 U.S.C. § 2201(a) and § 2202 (declaratory relief); and 28 U.S.C. § 1367 (supplemental jurisdiction over state law claims).
2. This court has personal jurisdiction over all parties.
- 3 Venue is proper in this District pursuant to 28 U.S.C. § 1391(b). All events set out below occurred within the District of Alaska and all parties are residents of the District of Alaska.

Factual Allegations

4. The plaintiff, Joseph Frederick, is a resident of Juneau, Alaska, and a senior at Juneau-Douglas High School
5. At all times relevant to this complaint, the Plaintiff was 18 years old and therefore an adult under Alaska law.
6. Defendant Deborah Morse is and was at all times relevant to this complaint the principal of Juneau Douglas High School.
7. The Defendant Juneau School Board is a subdivision of the City and Borough of Juneau, a local government, and is the body responsible for policies and governance of the public schools in the Juneau School District.
8. On January 24, 2002, the Olympic Torch Relay was run through the public streets of Juneau, Alaska.
9. The Olympic Torch Relay was an event sponsored by the U.S. Olympic Committee, the Coca-Cola Company, and Chevrolet, and their local affiliates.
10. The route of the Relay on January 24th took it through several parts of Juneau, including along a portion of Glacier Avenue that runs between Juneau Douglas High School and a residential neighborhood.
11. Prior to the arrival of the Relay, teachers at the High School were given the option of releasing their students so they could view the Relay pass. A number of teachers did so.
12. Among the students released by their teachers, most viewed the Relay from the public sidewalk on the High School side of Glacier Avenue. Some left school grounds and went to the other side of the street, the residential side. Other students left school grounds and went downtown to eat at McDonald's.
13. Prior to the arrival of the Relay on Glacier Avenue, Joseph Frederick arrived in the area in his car and parked along a public street off of Glacier Avenue. He did not enter school grounds before the Relay arrived.
14. As the Relay approached the area, snowball fights broke out among the students and then bottles

of Coca-Cola, handed out by one of the Relay sponsors, were thrown. Joseph was not among the students throwing things.

15. As the Relay approached him, Joseph stood on the public sidewalk on the residential neighborhood side of Glacier Avenue.

16. As the Relay reached his position, Joseph and a number of other persons displayed a banner reading, "Bong Hits 4 Jesus". Joseph held one end of the banner. Joseph and the others holding the banner remained silent while displaying the banner.

17. Defendant Morse saw the banner from her standpoint on the sidewalk near the High School and immediately walked across the street to the location of the banner on the public sidewalk.

18. Defendant Morse then demanded that the persons holding the banner drop it.

19. Joseph responded by asking her about his right of free speech, upon which she seized the staff holding one end of the banner out of Joseph's hands.

20. The other persons holding the banner then dropped it, upon which defendant Morse rolled it up and took it, telling Joseph to report to her in her office.

21. Joseph went to his car to retrieve his books and immediately went to his next class, where he informed the teacher that he was there but had to go to the principal's office.

22. At the principal's office, defendant Morse told Joseph that she was suspending him from school for five days.

23. Joseph respectfully protested the suspension and quoted Thomas Jefferson on civil liberty to her, whereupon she increased the suspension to ten days.

24. Joseph appealed the suspension to the Superintendent of Schools, who held a hearing at which defendant Morse testified:

a) she seized the banner and gave Joseph the suspension because she thought the banner was encouraging illegal drug use;

b) she would not have seized the banner if it had advocated legalizing drug use; and

c) she conceded that the banner was not obscene, was not offensive to minorities, and did not advocate violence;

d) she was unable to state any way in which the display of the banner disrupted classroom instruction or interfered with the educational process.

25. At the hearing, Joseph testified that the banner was not intended to advocate drug use, but was intended to be a humorous parody and to see whether the school administration would try to suppress free speech outside of school grounds.

26. The Superintendent modified the suspension to eight days but upheld the seizure of the banner and the rest of the suspension.

27. Joseph appealed the suspension to the defendant Juneau School Board, which upheld it without explanation

28. As a result of the seizure of the banner and the disciplinary actions taken against him, Joseph Frederick has suffered a direct deprivation of his constitutional right of free speech and expression and a direct deprivation of his right to a public education; and has been further damaged by having a permanent disciplinary record imposed on him, by emotional distress, humiliation, loss of enjoyment of life, and mental anguish.

Count I - Violations of Federal Constitutional Rights

29. All previous paragraphs are incorporated herein.

30. The First Amendment to the United States Constitution guarantees to all persons, including to all high school students, freedom of speech and freedom of assembly.

31. By seizing the banner, by punishing Joseph Frederick for displaying the banner, and by punishing him for quoting Thomas Jefferson on civil liberties, the defendants violated his right to free speech under the First Amendment to the United States Constitution and deprived him of his constitutional civil rights in violation of 42 U.S.C. § 1983.

Count II - Violations of State Constitutional Rights

32. All previous paragraphs are incorporated herein.

33. Article I, Section 5, of the Constitution of the State of Alaska guarantees to all persons the right

to freely speak, write, and publish on all subjects.

34. Article VII, Section 1, of the Constitution of the State of Alaska guarantees to all school-age persons in Alaska the right to public education.

35. By punishing Joseph Frederick for displaying the banner and for quoting Thomas Jefferson on civil liberties, the defendants violated his right to freely speak under the Constitution of the State of Alaska.

36. By suspending Joseph Frederick from school for displaying the banner for and for quoting Thomas Jefferson on civil liberties, the defendants violated his right to a public education under the Constitution of the State of Alaska.

Prayer for Relief

Therefore, Plaintiff demands judgment and relief as follows:

- A. A declaration that the Defendants have violated the rights of the Plaintiff under the First Amendment to the United States Constitution; Article I, Section 5, of the Constitution of Alaska; and Article VII, Section 1 of the Constitution of Alaska;
- B. A mandatory injunction prohibiting Defendants from further violating the same rights of the Plaintiff or similarly situated persons;
- C. A mandatory injunction requiring Defendants to remove all reference to discipline based on the above incidents from his student records and to amend his grades to ameliorate any academic disability suffered as a result of the punishments complained of above;
- D. An award of compensatory damages against all Defendants;
- E. An award of punitive damages against all Defendants;
- F. An award of attorney fees and costs of suit pursuant to 42 U.S.C. § 1988 and Federal Rule of Civil Procedure 54; and
- G. Such other relief as the court may deem proper.

Dated: _____

Douglas K. Mertz
Attorney for the Plaintiff
Cooperating Attorney, Alaska Civil Liberties Union