

This is Youth Voice? **By Sam Chaltain**

On March 19, nearly forty years after its landmark decision protecting 13-year-old Mary Beth Tinker's right to protest the Vietnam War by wearing a black armband to class, the U.S. Supreme Court was back to school. Yet this time, as another war divides the nation, the student speech in question was not about foreign policy, freedom or justice – it was about bong hits.

The conflict began back in January 2002, as the Olympic torch traveled through Juneau, Alaska. Joseph Frederick and some fellow high school seniors thought they could get on TV by unfurling a banner with the cryptic message, “Bong Hits 4 Jesus.”

When Frederick's high school principal saw the banner, she left school property and crossed the street to confront him. The 18-year-old countered the principal's order to take down the banner by asking, “What about the Bill of Rights and freedom of speech?”

Now the nine Justices of the U.S. Supreme Court must answer Frederick's question in the case, *Morse v. Frederick*. In so doing, they will rule on an issue, student speech rights, that has grown increasingly complex since the Court's *Tinker* ruling in 1969. As Juneau school superintendent Peggy Cowan put it, “We are counting on this case to give us clarity.”

Cowan's desire for legal guidance is understandable. Since 1969, the Supreme Court has twice refined its primary standard for judging the constitutionality of student speech, in 1986 and 1988. Yet lingering questions remain about when – and which of – these different legal standards should apply, resulting in a slew of conflicting opinions at the lower court level. For this reason, the Court's willingness to directly address the issue is welcomed.

Yet as important as the legal clarity may be, the facts of this case underscore an equally pressing concern – the eroding quality of civic discourse in this country. Just consider the distance we have traveled from Tinker's armband to Frederick's banner, and what the ideological chasm between those two methods of symbolic expression suggests about the extent to which we value and support authentic opportunities for youth voice and civic engagement.

Tinker, her brother, John, and five middle and high school classmates wore their armbands to school in December 1965 because they felt compelled by their consciences to speak out. As John explained in official court papers, “I do not consider this a trivial matter. It is important to me because I morally think [the war] is wrong, and when people are getting killed, I guess that's important to me.”

By contrast, Frederick's act provides no similarly compelling rationale. As he said in a court affidavit, “We thought we had a free-speech right to display a humorous saying.

The content of the banner was less important to us than the fact that we were exercising our free-speech rights to do a funny parody.”

The distinction between these two comments underscores the subtle but deleterious devolution of the First Amendment’s significance in American society. Today, many of us, if we think about the First Amendment at all, are less likely to envision Cesar Chavez, Alice Paul or black armbands, and more likely to imagine computer-generated images of child pornography, divisive culture wars in our public schools, or “Bong Hits 4 Jesus” banners.

To be certain, the First Amendment does not exist to protect only the civic leader, the suffragette, or the student activist, and all of us who cherish those five freedoms (religion, speech, press, assembly and petition) must accept the civic responsibility to protect both our own rights and the rights of others – especially those whose ideas we most deeply disagree with. Yet with a case like this before the Supreme Court, the First Amendment rights of young people stand to suffer either way.

Many will see Frederick’s speech as the latest example of a generation that is increasingly apathetic, immature and incapable of participating fully in civic life. Others will cast school officials as the chief obstacle to a more robust application of the First Amendment in public education. The deeper truth, beyond the specific facts of this or any other case, is that we have become complacent when it comes to ensuring that all young people have the skills and self-confidence they need to be seen and heard in meaningful, responsible ways – both in and out of school.

As Americans, we are fortunate to live in a country founded on the revolutionary notion that every human being is born with certain inalienable rights. Yet none of us is born with the wisdom to exercise those rights responsibly. That type of civic literacy takes practice. And there is no better place to practice the rights and responsibilities of citizenship than our nation’s public schools.

Before our students can become more free and responsible citizens, we need schools that are concerned with doing more than raising test scores. We need leaders who spark student learning and civic engagement by creating schools in which everyone has voice, value and visibility. And we need more than just students who possess a vague awareness of the First Amendment’s five freedoms; we need a new generation of citizens who more fully understand and utilize those rights in order to follow their consciences, speak out for justice and organize for change.

Sam Chaltain is an education consultant and the co-author of *First Freedoms: A Documentary History of First Amendment Rights in America*.
Email: schaltain@gmail.com