**Landmark U.S. Supreme Court Case Study**

*Tinker v. Des Moines* | 1968 | Page One

Adapted from Oyez.org <http://www.oyez.org/cases/1960-1969/1968/1968_21>

and Landmarkcases.org <http://landmarkcases.pbworks.com/w/page/14738317/Tinker%20v%20Des%20Moines>

**Essential Question of the Case:**

Does a ban against the wearing of armbands in public school, as a form of symbolic protest, violate the First Amendment's freedom of speech protections?

**Background**

John and Mary Beth Tinker attended public school in Des Moines, Iowa in 1965. Their school did not allow students to wear armbands to protest the Vietnam War. However, the Tinkers decided to wear armbands to school anyway. The school officials asked the Tinkers to remove their armbands, but the Tinkers refused. John and Mary Beth Tinker were suspended from school until they agreed to remove the armbands.

The Tinkers’ parents sued the school district in the U.S. District Court. Mr. and Mrs. Tinker believed that the Des Moines school district violated their right to free speech under the First Amendment to the U.S. Constitution. Even though the students were not speaking with their voices, they believed that wearing armbands was like speaking. This is called symbolic speech.

The District Court sided with the school officials. The Court said that wearing the armbands could disrupt learning at the school. Learning without disruption was more important than the free speech of the students.

The Tinkers appealed their case to the next level of courts, the U.S. Court of Appeals for the Eighth Circuit, but the Circuit Court agreed with the District Court. The Tinkers then appealed their case to the U.S. Supreme Court.

**Constitutional Principles Related to the Case**

**1st Amendment (1791)**

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

**14th Amendment (1868)**

**SECTION. 1.** All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

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**Decision & Impact**

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

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 limiting student expression.

The reason for limiting expression must be more than a desire to avoid having students express unpopular viewpoints and school officials must show that the expression would cause a substantial disruption to the school environment. 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 [invade] 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 major disruption in the school. The decision also noted that the school officials specifically targeted anti-war armbands, but did not forbid the wearing of any other symbols conveying a political message.

Tinker v. Des Moines set the legal precedent that students keep some of their First Amendment rights while in school and for school officials to deny these rights, they must show a substantial impact on the school and learning environment.