

Constitutional Rights Foundation Chicago

Identifying Persuasive Arguments in *Morse v. Frederick (2007)*

Constitutional Question: *Does the First Amendment allow public schools to prohibit students from displaying messages promoting the use of illegal substances at school-sponsored, faculty-supervised events?*

A key to deciding the constitutional question in *Morse v. Frederick* is understanding the arguments for each side of the case. Below are arguments from the case.

Step 1: Read through each argument. Circle or mark 3 arguments you find *most persuasive*. Do not be concerned with whether you agree or disagree with the arguments.

Step 2: Working with a partner, reach consensus on which 3 arguments you feel are the *most persuasive*. Be prepared to explain your choices to the class. You do not need to agree with the argument to consider it persuasive.

1. ___ Frederick disrupted a school activity by displaying the banner and could have interfered with the work of the school by increasing drug use and promoting other pro-drug messages.
2. ___ Even if considered student speech, Frederick's banner was like the armbands in *Tinker v. Des Moines*. It was displayed peacefully and did not "substantially interfere" with schoolwork. The only disruption was the principal's action of crumpling up the banner.
3. ___ This case does not involve student speech inside of a public school, so Frederick should have the same rights adults have. Frederick claims he did not attend or step foot onto school property that day. Only some of the students were supervised by faculty and staff.
4. ___ This case involves student speech because Frederick was at a school-sponsored event. The students were released to watch the relay around school, and the students were under the supervision of school faculty and staff. It was during the school day, and students attending class trips are subject to school rules.
5. ___ This case is not like *Hazelwood v. Kuhlmeier* because the pro-drug banner was not part of the curriculum or an official school activity. The speech took place off campus at an Olympics activity. No reasonable person would think the pro-drug message was endorsed by the school.
6. ___ Students engaging in sending messages school officials do not agree with and doing so while not disturbing classes or other students should be protected by the First Amendment.

7. _____ This case is like *Bethel v. Fraser*. Principal Morse and the school disciplined Frederick for displaying a message that advocated illegal drug use. Discouraging the use of illegal substances is part of the school's "basic educational mission."
8. _____ Unlike in *Bethel v. Fraser*, the message was not plainly offensive, lewd, or vulgar. Instead it was political speech about drug use, which did not involve sexual innuendos or cause a reaction from other students.
9. _____ Like in *Hazelwood v. Kuhlmeier*, the school can limit Frederick's message during a school-sponsored event because it looks like the school is endorsing the message.
10. _____ As originally understood, the Constitution does not afford students a right to free speech in public schools. Early public schools gave total control to teachers, who expected obedience and respect from students.