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## 'Bong Hits 4 Jesus' case limits student rights

- High Court considers students' First Amendment rights
- Case involves student's "Bong hits 4 Jesus" banner at event
- School argues principal had right to punish student for drug message
- Student, now 24, said he was not promoting drugs

By Bill Mears  
CNN Washington Bureau

**WASHINGTON** (CNN) -- The Supreme Court ruled against a former high school student Monday in the "Bong Hits 4 Jesus" banner case -- a split decision that limits students' free speech rights.

Joseph Frederick was 18 when he unveiled the 14-foot paper sign on a public sidewalk outside his Juneau, Alaska, high school in 2002.

Principal Deborah Morse confiscated it and suspended Frederick. He sued, taking his case all the way to the nation's highest court.

The justices ruled that Frederick's free speech rights were not violated by his suspension over what the majority's written opinion called a "sophomoric" banner. ([Watch the banner unfurl and launch a legal battle](#) )

"It was reasonable for (the principal) to conclude that the banner promoted illegal drug use-- and that failing to act would send a powerful message to the students in her charge," Chief Justice John Roberts wrote for the court's 6-3 majority. Breyer noted separately he would give Morse qualified immunity from the lawsuit, but did not sign onto the majority's broader free speech limits on students. ([Opinion](#) )

Roberts added that while the court has limited student free speech rights in the past, young people do not give up all their First Amendment rights when they enter a school.

Roberts was supported by Justices Antonin Scalia, Anthony Kennedy, Clarence Thomas, Stephen Breyer, and Samuel Alito. Breyer noted separately he would give Morse qualified immunity from the lawsuit, but did not sign onto the majority's broader free speech limits on students.

In dissent, Justice John Paul Stevens said, "This case began with a silly nonsensical banner, (and) ends with the court inventing out of whole cloth a special First Amendment rule permitting the censorship of any student speech that mentions drugs, so long as someone could perceive that speech to contain a latent pro-drug message."

He was backed by Justices David Souter and Ruth Bader Ginsburg.

At issue was the discretion schools should be allowed to limit messages that appear to advocate illegal drug use. "Bong," as noted in the appeal filed with the justices, "is a slang term for drug paraphernalia."

The incident occurred in January 2002 just outside school grounds when the Olympic torch relay was moving through the Alaska capital on its way to the Salt Lake City, Utah, Winter Games.

Though he was standing on a public sidewalk, the school argued Frederick was part of a school-sanctioned event, because students were let out of classes and accompanied by their teachers.

Morse ordered the senior to take down the sign, but he refused. That led to a 10-day suspension for violating a school policy on promoting illegal drug use.

Frederick filed suit, saying his First Amendment rights were infringed. A federal appeals court in San Francisco agreed, concluding the school could not show Frederick had disrupted the school's educational mission by showing a banner off campus.

Former independent counsel Kenneth Starr argued for the principal that a school "must be able to fashion its educational mission" without undue hindsight from the courts.

Morse, who attended arguments in March, told CNN at the time: "I was empowered to enforce the school board's written policies at that time aimed at keeping illegal substances out of the school environment."


As for Frederick, he is halfway across the globe, teaching English to students in China.

Now 24, he told reporters in March that he displayed the banner in a deliberate attempt to provoke a response from principal Morse, by whom he had been disciplined previously. But Frederick claimed his message of free speech is very important to him, even if the wording of the infamous banner itself was not.

"I find it absurdly funny," he said. "I was not promoting drugs. ... I assumed most people would take it as a joke."

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