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Teacher's Free Speech Case Denied

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The U.S. Supreme Court declined last week to hear the appeal of a former Indiana teacher who alleged that she lost her job because she had discussed the Iraq war in her classroom.

The appeal was one of hundreds turned down by the justices on Oct. 1, the first day of their new term.

The case was notable because it led to a fairly broad ruling by a federal appeals court that teachers have virtually no First Amendment protection for statements made in the classroom, even on a topic of such public importance as the war.

Deborah A. Mayer was a first-year teacher in the 11,000-student Monroe County, Ind., school district in January 2003 when she used an edition of TIME for Kids in a current-events discussion about the then-impending war.

According to court papers, the magazine reported on a peace march in Washington to protest the prospect of a U.S. invasion of Iraq. Ms. Mayer was asked by a student in her multiage classroom of 3rd through 6th graders if she would ever participate in such a peace demonstration. She told them that when she had driven by recent peace marches in Bloomington, Ind., related to the Iraq situation, she had honked her horn in response to a sign that said, "Honk for Peace."

"And then I went on to say that I thought it was important for people to seek out peaceful solutions to problems before going to war, and that we train kids to be mediators on the playground so that they can seek out peaceful solutions to their own problems," Ms. Mayer said in a deposition in the case.

Some parents complained to the principal about the brief discussion, and the principal barred Ms. Mayer from discussing "peace" in her classroom, according to court papers. The principal also canceled the school's traditional "peace month."

"We absolutely do not, as a school, promote any particular view on foreign policy related to the situation with Iraq," Principal Victoria Rogers said in a memo to school personnel at the time. "That is not our business."

The school district decided in April 2003 not to renew Ms. Mayer's contract for the next school year. The teacher alleged that it was because of her comments on Iraq, and she sued the district on First Amendment and related grounds.

A Captive Audience

A U.S. District Court judge in Indianapolis granted summary judgment last year to the school district. In

a Jan. 24 ruling, a three-judge panel of the U.S. Court of Appeals for the 7th Circuit, in Chicago, ruled unanimously for the district as well.

"The First Amendment does not entitle primary and secondary teachers, when conducting the education of captive audiences, to cover topics, or advocate viewpoints, that depart from the curriculum adopted by the school system," the appeals court said.

The 7th Circuit judges held that Ms. Mayer's comments were the type of on-the-job speech by a public employee that merited no First Amendment protection under a 2006 Supreme Court decision known as ***Garcetti v. Ceballos***.

In their Supreme Court appeal, lawyers for Ms. Mayer noted that the justices had stopped short of applying their *Garcetti* ruling to public education.

"Teachers need to know if their in-class speech is ever entitled to First Amendment protection and, if so, when," Ms. Mayer's appeal said.

The justices had expressed some interest in the case. When the school district initially declined to file an answer to the teacher's appeal, the high court requested a response. The district's brief may have convinced the justices that the case would not be suitable for deciding the teacher-speech question.

According to the Monroe County district, some parents had complained about Ms. Mayer's "demeanor, conduct towards students, and professional competency" even before the discussion of Iraq. During the second semester, the principal had placed Ms. Mayer on an improvement plan, but the teacher's "job performance progressively deteriorated," the district said in its court papers.

"Ms. Mayer's speech was not the motivating factor for the nonrenewal of her teaching contract," the district said.

The justices declined without comment to hear the teacher's appeal in *Mayer v. Monroe County Community School Corp.* (Case No. 06-1657).

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