

BETHEL SCHOOL DISTRICT v. FRASER (1986)

On April 26, 1983, Matthew N. Fraser, then a seventeen-year old senior at Bethel High School in Tacoma, Washington, nominated a friend and classmate for school office at a student-run assembly of 600 called for that purpose.

Fraser's nominating speech contained sexual references and profane language. The speech drew a variety of responses. Students hooted and hollered, some seemed embarrassed, and some were seen making what appeared to be sexual gestures. As a result of the speech, one teacher reported that ten minutes of her class time was taken up with discussion of the speech. No other evidence of disruption of the educational process was reported.

The day after he delivered the speech, Fraser was asked to report to the assistant principal's office and to produce a copy of the text of his speech. At the meeting, Fraser was given notice that he was being charged with violating the school's disruptive conduct rule. (Disruptive Conduct: Conduct which materially and substantially interferes with the educational process is prohibited, including the use of obscene, profane language or gestures.) After he was given an opportunity to explain his conduct, Fraser was suspended for three days. Fraser, who was a member of the Honor Society and the debate team and the recipient of the "Top Speaker" award in statewide debate championships for two consecutive years, also was informed that his name would be removed from a previously approved list of candidates on the ballot for graduation speaker. Even though his name was stricken from the ballot, he was elected as the graduation speaker by his classmates on a write-in vote, receiving the second highest number of votes cast. The District, nevertheless, continued to deny him permission to speak.

Questions for discussion:

1. Should Matthew Fraser's speech be protected by the First Amendment?
2. What are the similarities and differences with the Tinker case?
3. Should Fraser have been suspended?
4. Would Fraser's speech be protected if he gave it off the school campus?

SUMMARY OF DECISION: *Bethel v. Fraser*

In a 7 to 2 decision, the Supreme Court decided that the school district acted entirely within its permissible authority in imposing sanctions upon Matthew Fraser. His lewd and indecent speech had no claim to First Amendment protection. Since there was a school rule which prohibited “obscene” language and since teachers warned Fraser that his lewd speech could subject him to sanctions, he was given adequate notice that he would violate school rules.

Chief Justice Warren Burger wrote:

It is a highly appropriate function of public school education to prohibit the use of vulgar and offensive terms in public discourse. The school board has an interest in protecting minors from exposure to vulgar and offensive spoken language and has the authority to identify such language as inappropriate and subject to sanction.

Justices Marshall and Stevens dissented on the grounds that the court failed to prove that the remarks were disruptive. They also argued that Matthew Fraser, a bright student respected by his peers, was in a better position to determine whether his contemporaries would be offended by a sexual metaphor than a group of judges three generations and 3,000 miles removed from contemporary standards.

The vote lined up as follows:

Majority: Burger, Blackman, Brennan, Powell, O’Connor, White, Rehnquist.
Dissenting: Marshall, Stevens.