

Judge Rules Teachers Have No Free Speech Rights in Class

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Here's an update on Deb Mayer, the teacher who said her contract was not renewed because she answered a student's question about whether she would participate in a demonstration for peace.

Her case involves an incident that occurred on January 10, 2003, at Clear Creek Elementary School in Bloomington, Indiana.

The students were reading an article in Time for Kids about peace protests. She responded to the student's question by saying she sometimes honks for peace and that it's important to seek out peaceful solutions both on the playground and in society. Afterwards, the parents of one of the students got angry and insisted that she not speak about peace again in the classroom. Mayer's principal so ordered her.

When the school district did not renew Mayer's contract at the end of the semester, she sued for wrongful termination and for violation of her First Amendment rights.

On March 10, Judge Sarah Evans Barker dismissed Mayer's case, granting summary judgment to the defendants.

The judge said the school district was within its rights to terminate Mayer because of various complaints it received from parents about her teaching performance.

But beyond that, Judge Barker ruled that "teachers, including Ms. Mayer, do not have a right under the First Amendment to express their opinions with their students during the instructional period."

The judge ruled that "school officials are free to adopt regulations prohibiting classroom discussion of the war," and that "the fact that Ms. Mayer's January 10, 2003, comments were made prior to any prohibitions by school officials does not establish that she had a First Amendment right to make those comments in the first place." The judge also implied that Mayer, by making her comments, was attempting to "arrogate control of the curricula."

And the judge gave enormous leeway to school districts to limit teachers' speech in the classroom.

"Whatever the school board adopts as policy regarding what teachers are permitted to express in terms of their opinions on current events during the instructional period, that policy controls, and there is no First Amendment right permitting teachers to do otherwise,"

Judge Barker wrote.

The judge “has simply gotten the law wrong,” says Michael Schultz, Mayer’s attorney. “There is a long line of authority that teachers do not check their First Amendment rights at the schoolhouse door. And, in this case, Ms. Mayer was asked for her opinion in the context of teaching the approved curriculum. She only gave her opinion in a very appropriate, limited way and then related the issue to the students’ lives (i.e., on the playground), and then moved on in the lesson. If giving one’s opinion in response to a legitimate (and predictable) question is fair game for making a decision to terminate a teacher, who will want to teach? And, more importantly, what impact will this state of affairs have on the quality of instruction?”

Mayer says she’s going to appeal. “It’s too important not to,” she says. “Teachers everywhere are at risk because of what this judge has said.”

Matthew Rothschild has been with The Progressive since 1983.

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