

Lawrence Law Journal

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THE LAWRENCE COUNTY BAR ASSOCIATION

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NOTICE

The Court of Common Pleas of Lawrence County will sit in special session as a Court of Remembrance in recognition of the following deceased members of the Lawrence County Bar on the 12th day of January, 2022 at 12:00 p.m. in Courtroom #1:

Thomas Bashara II, Esq.

Gerald Crowley, Esq.

Harry O. Falls, Esq.

David T. Mojock, Esq.

Anthony J. Kosciuszko, Esq.

Resolutions in memory of the deceased will be presented and anyone wishing to make a comment will be welcome to do so.

The Court of Remembrance was a long-standing tradition that once existed in the Lawrence County Court and which the Court now seeks to reinstate so that proper tribute to the memory of the deceased members of the Bar may be made.

Dominick Motto
President Judge

NOTICE

The Lawrence County Bar Association Annual Meeting will be held on Zoom on Tuesday, November 16, 2021 at 12:00 noon.

The meeting link has been sent to all members by email. If you need the link sent to you, please email jthomas@lawrencecountypa.gov.

ESTATE NOTICES

Notice is hereby given that in the estates of the decedents set forth below, the Register of Wills has granted letters, testamentary or of administration, to the persons named. All persons having claims against the estate of the decedent shall make known the same to the person(s) named or to his/her/their attorney and all persons indebted to the decedent shall make payment to the person(s) named without delay.

FIRST PUBLICATION

Budzinski, Joseph

Late of Lawrence County, Pennsylvania
Executrix: Terry Lippman, 206 10th St., Bessemer, PA 16112
Attorney: Larry J. Puntureri, 2102 Wilmington Rd., New Castle, PA 16105

Cook, Christine M.

Late of Lawrence County, Pennsylvania
Administrator: Brian F. Levine, Esquire
Attorney: Brian F. Levine, Levine Law, LLC, 22 E. Grant St., New Castle, PA 16101-2279

Davis, Barbara J.

Late of Neshannock Township, Lawrence County, Pennsylvania
Executrix: Susan L. Davis, 570 Midfield Lane, New Castle, PA 16105
Attorney: William J. Flannery, 2910 Wilmington Rd., New Castle, PA 16105

Evans, Jean A.

Late of Lawrence County, Pennsylvania
Executrix: Bobbie Jean Rodocker, 1201 Lindsay Rd., Carnegie, PA 15106
Attorney: Joseph S. Bielecki, 68 South 12th St., Pittsburgh, PA 15203

Mills, Mansford M.

Late of Mahoning Township, Lawrence County, Pennsylvania
Executor: Brandi Pohlod, 176 Baird Rd., Edinburg, PA 16116
Attorney: John R. Seltzer, 713 Wilmington Ave., New Castle, PA 16101, 724-652-0821

Preston, Shirley

a/k/a Preston, Shirley O.
Late of Neshannock Township, Lawrence County, Pennsylvania
Executor: David B. Preston, P.O. Box 5034, 1781 Valley Rd., New Castle, PA 16105
Attorney: Paul T. Fabiano, J.D., LL.M., 6943 Sunflower Lane, Macungie, PA 18062

Sharp, Frances M.

a/k/a Sharp, Frances
Late of Wilmington Township, Lawrence

County, Pennsylvania
Executor: Joanne Sizer
Attorney: Clark & Clark Law, P.C., Robert D. Clark, Jr., 201 N. Market St., New Wilmington, PA 16142

Sharp, Merle Francis a/k/a Sharp, Merle F.

Late of Shenango Township, Lawrence County, Pennsylvania
Administrator: Kimberly J. Sharp, 110 Gudekunst Rd., Zelenople, PA 16063
Attorney: David A. Crissman, Montgomery, Crissman, Kubit, L.L.P., 518 North Main St., Butler, PA 16001, 724-285-4776

Ubry, Kenneth Dale

Late of Union Township, Lawrence County, Pennsylvania
Executor: Bruce E. Ubry, 345 Ubry Lane, New Castle, PA 16101
Attorney: John R. Seltzer, 713 Wilmington Ave., New Castle, PA 16101, 724-652-0821

Wyza, Joan M.

a/k/a Wyza, Joan Marie
Late of Hillsville, Lawrence County, Pennsylvania
Executor: Gerald A. Wyza, Jr., 718 Ludlow Ave., Rochester, MI 48307
Attorney: Louis M. Perrotta, Louis M. Perrotta, P.C., 229 S. Jefferson St., New Castle, PA 16101, 724-658-9980

SECOND PUBLICATION

Brown, Pamela Jo Phillips

Late of Union Township, Lawrence County, Pennsylvania
Administrator: Larry W. Brown, 235 Penn Boulevard, New Castle, PA 16101
Attorney: Anthony Piatek, 414 N. Jefferson St., New Castle, PA 16101

Golis, Carol M.

Late of New Castle, Lawrence County, Pennsylvania
Executor: Stanley W. Golis, 1338 W 15th Avenue, Anchorage, AK 99501
Attorney: Louis M. Perrotta, Louis M. Perrotta, P.C., 229 S. Jefferson St., New Castle, PA 16101, (724) 658-9980

McCormick, Amy W.

Late of Slippery Rock Township, Lawrence County, Pennsylvania
Executrix: Samantha J. Carr, 3606 US 422, New Castle, PA 16101
Attorney: McNickle & Bonner, LLP, 209 West Pine St., Grove City, PA 16127-1595

Mercer, Ralph, Jr.

Late of Hickory Township, Lawrence County, Pennsylvania
Administrators: Matthew R. Mercer, 11086 Wingate Dr., Chagrin Falls, OH 44023 and Julia A. Mercer-Wood, 18745 Auburn Glen Dr., Chagrin Falls, OH 44023
Attorney: Gene G. Dimeo, Dimeo Law Group, PLLC, 120 Fourth St., Ellwood City, PA 16117, 724-752-9955

Pica, Sara E.

Late of Lawrence County, Pennsylvania
Executor: Robert J. Bastian, 4341 Hollow Rd., New Castle, PA 16101
Attorney: William M. Panella, 2616 Wilmington Rd., Suite B, New Castle, PA 16105, 724-658-2462

Phillips, Pearl M.

Late of New Castle, Lawrence County, Pennsylvania
Co-Executors: Deborah Thompson, 2315 Graham Ave., New Castle, PA 16101 and Terry Llewellyn, 1946 Morris St., New Castle, PA 16101
Attorney: Louis M. Perrotta, Louis M. Perrotta, P.C., 229 S. Jefferson St., New Castle, PA 16101, (724) 658-9980

THIRD PUBLICATION

DeCampi, David M.

Late of Perry Township, Lawrence County, Pennsylvania
Executors: Celeste R. Boehm, 118 McCreary Rd., New Brighton, PA 15066 and Timothy Broniszewski, 1041 Utica New Lebanon Rd., Utica, PA 16362
Attorney: Matthew T. Mangino, 315 N. Mercer St., New Castle, PA 16101

Kerr, Geraldine R.**a/k/a Kerr, Geraldine**

Late of Wilmington Township, Lawrence County, Pennsylvania
Executor: Margaret Kerr
Attorney: Clark & Clark Law, P.C., Robert D. Clark, Jr., 201 N. Market St., New Wilmington, PA 16142

McEwen, Joanne Elizabeth

Late of Neshannock Township, Lawrence County, Pennsylvania
Administrator: Dennis R. McEwen, 135 Seminole Dr., Pittsburgh, PA 15228
Attorney: Raymond C. Vogliano, Eckert Seamans Cherin & Mellott LLC, 600 Grant St., 44th Floor, Pittsburgh, PA 15219

Nicol, Edward W.

Late of Little Beaver Township, Lawrence County, Pennsylvania
Executors: Chelsey Shingler and Dale Vollmer
Attorney: Clark & Clark Law, P.C., Robert D. Clark, Jr., 201 N. Market St., New Wilmington, PA 16142

Pounds, William**a/k/a Pounds, William D., Sr.****a/k/a Pounds, William Dale, Sr.**

Late of the City of New Castle, Lawrence County, Pennsylvania
Executrix: Phyllis McConahy, 145 Patterson Rd., Slippery Rock, PA 16057
Attorney: Anthony Piatek, 414 N. Jefferson St., New Castle, PA 16101

Sheehan, Olive A.

Late of Bessemer, Lawrence County, Pennsylvania
Co-Executors: Lee P. Sheehan, 603 Columbiana Rd., Bessemer, PA 16112 and Timothea R. Kost, 329 Beagle Club Rd., Cowansville, PA 16218
Attorney: Carmen F. Lamancusa, 414 N. Jefferson St., New Castle, PA 16101

Stanczak, Bernice J.

Late of Lawrence County, Pennsylvania
Executor: David Stanczak, 1816 Chippingham Rd., Woodridge, IL 60517-4624
Attorney: Brian F. Levine, Levine Law LLC, 22 E. Grant St., New Castle, PA 16101

FICTITIOUS NAME NOTICE

DBA: Backyard Broadheads, 1842 Dutch Ridge Rd., Ellwood City, PA 16117

Jim Walton, 1842 Dutch Ridge Rd., Ellwood City, PA 16117

L.C.L.J. - October 1, 2021

NOTICE

To All Persons Interested, You Will Take Notice:

That the following accounts and statements of proposed distribution or request for audit of Executors, Administrators, Trustees and Guardians, Etc., have been filed in the Orphans' Court of the Court of Common Pleas of Lawrence County, Pennsylvania. The accounts and statements of proposed distribution are opening for examination.

All parties in interest have the right to file

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written objections to the account or statement of proposed distribution as *provided by law and rules of court.*

The said accounts will be presented to the Court for audit, distribution of assets and final confirmation on November 19, 2021 at 9:00 a.m. e.s.t., at which time all parties in interest will have the opportunity to be heard.

FIRST AND FINAL ACCOUNTS OF DISTRIBUTION NOVEMBER 19, 2021

106/2018 O.C. First and Final Account of Judith Carol Fabian and James H. Foreman, Jr. Co-Executors of the Estate of James Harry Foreman, Deceased.

Jodi Klaboron-Esoldo, Prothonotary, Clerk of Courts and Orphans' Court

L.C.L.J.- October 25 and November 1, 2021

IN THE COURT OF COMMON PLEAS OF LAWRENCE COUNTY, PENNSYLVANIA

CIVIL DIVISION – LAW

CIVIL DIVISION

NO. 10700-2021

ANTHONY PUNZELL T/D/B/A TALVEST HOLDING, LLC,

Plaintiff,

Vs.

RONALD TAYLOR, RAYMOND TAYLOR, AND ROBERT H. TAYLOR, INDIVIDUALLY; AND ROBERT H. TAYLOR AS EXECUTOR OF THE ESTATE OF PAUL W. TAYLOR, DECEASED,

Defendants

NOTICE TO DEFEND AND CLAIM RIGHTS TO THE DEFENDANTS:

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that, if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Lawyer Referral Service
Lawrence County Bar Association
Lawrence County Courthouse
430 Court St
New Castle, Pa. 16101
724-656-1921

L.C.L.J. - October 1, 2021

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Lawrence County Bar Association Annual Essay Contest

The Lawrence County Bar Association has awarded scholarships to three local 2021 high school graduates.

Molly McCommons, graduate from Lincoln High School and Asia Morgenstern, graduate of Wilmington High School, both received \$2,000.00 scholarships while Gabrielle Lego, graduate from Wilmington High School, received a \$1,000.00 scholarship.

The winning students had submitted essays answering the question: *"Is it a violation of a student's first amendment right to be disciplined by a school district for making a social media post which is unrelated to a school activity and made off of school grounds?"*

The scholarship winners, their involements, personal history and future endeavors are:

Molly McCommons - daughter of Kathy McCommons, is attending Grove City College, where she plans to major in history or math with the eventual goal of pursuing law. At Lincoln High School, Molly was treasurer of the senior class, president of Lincoln's National Honor Society and Peer Leadership organizations, as well as the co-founder of KidsToo, an outreach organization that aims to empower domestic and child abuse survivors in the community. Molly also served as a director for "The Hartman News", which provides the morning announcements to elementary school students in the Ellwood City area. She was an anchor for Lincoln's morning announcements as well.

Asia Morgenstern - daughter of Paul and Susan Morgenstern, is attending Westminster College with a dual major in physics and mathematics. Asia was a participant of the Greyhound Marching Band, as well as the high school symphonic band and pep band. She was also a member of the National Honor Society and received the Rural and Small Town Scholar Award from the College Board National Recognition Programs.

Gabrielle Lego - daughter of Aaron and Renee Lego, is attending Grove City College to pursue a dual major in accounting and finance. Gabrielle was a member of Wilmington's marching band, spending 5 years in the drumline. Also, she was a 3-year varsity letter winner on the volleyball team. Outside of school, she is also active in her church youth group. Along with those activities, she also participated in the following clubs throughout high school: National Honor Society, Peer Leadership, and Yearbook.

The Lawrence County Bar Association has awarded a total of \$101,500.00 to local students in the past 37 years with their annual scholarship program. The Scholarship Committee members this year were attorneys Anthony Piatek, Chairman, Joshua Lamancusa, Ryan C. Long, Luanne Parkonen, Jean Krkuc-Perkins, and Deborah A. Shaw.

The students were honored a program in mid-July in Courtroom # 1 of the Lawrence County Courthouse.

The students' winning essays are published in the following pages.

Molly McCommons's Essay: Winner of a \$2,000.00 scholarship:

While the Bill of Rights grants a variety of protections to the people, such as the rights of the accused through the due process clause of the Fifth Amendment, the right to certain protections in civil cases through the Seventh Amendment, even the right to privacy cast by a variety of penumbras from the Third, Fourth, and Ninth Amendments, the First Amendment arguably contains some of the most inherent protections that are essential in upholding democracy (U.S. Const. amend. I-X). The right to freedom of religion, press, assembly, petition, and speech are subject to the highest level of scrutiny by the Court and thus, should be given the most careful and thoughtful consideration. Nonetheless, even though the Framers designed the Bill of Rights with the intention of protecting individual liberties, they did so in an age before technology, thus making it impossible for them to foresee all of the questions regarding individual liberties in the modern age. One of these questions, spurred by the modern development of social media, is whether it is a violation of a student's First Amendment right to be disciplined by a school district for making a social media post unrelated to school activity and made off of school grounds. Even though the nature of this question requires a fluid interpretation of the Constitution, it is unreasonable to assume that the basic protections granted to American citizens from the federal government do not apply to students as well. In other words, when a governing body, such as a school district, threatens to infringe upon a student's First Amendment right to free speech, that institution must be held accountable.

For many years, the protections found in the Bill of Rights only restricted the power of the federal government, as outlined by *Barron v. Baltimore*.¹ However, with the ratification of the Fourteenth Amendment and through the process of selective incorporation, those restrictions extended to state and local governments as well, using the wording, "nor shall any State deprive any person of life, liberty, or property..." as foundation for incorporation (U.S. Const. amend. XIV). On a case-by-case basis, the Supreme Court extended many of the fundamental freedoms of the Bill of Rights, including the freedom of speech, to the states. Consequently, these protections apply to public schools as well, as they are considered to be state actors and must ensure procedural due process in disciplinary hearings involving students' rights (Farlex). The first case that incorporated free speech protections to state governments was *Gitlow v. New York*, where the Court ruled that the First Amendment's free speech clause applied to the states through the incorporation doctrine.² Using *Gitlow* as a basis, throughout the second half of the 20th century, the Court began to hear issues regarding free speech in schools, most notably with the *Tinker v. Des Moines* case.³ In the *Tinker* case, the Court ruled that students retained their First Amendment rights, even in school, and that political and controversial speech could not be limited unless it disrupted school activities. While the *Tinker* case did not specifically address First Amendment rights in the realm of social media, it set a precedent for future First Amendment cases involving student's rights in academic settings.

Many appellate courts have used the landmark decision of the *Tinker* case when ruling on a student's right to free expression in an online environment; in general, there are two conditions that form the basis of court rulings in order for an administrator to punish students for online activity: a close link to the school (a "nexus") and an anticipated disruption of daily school activities (Gjelten). For instance, in the federal circuit case of *Wynar v. Douglas County School District*, the defendant sent classmates instant messages full of violent language about shooting fellow students, violating both conditions established by the *Tinker* case.⁴ Using similar reasoning, the 8th circuit court found in the case of *S.J.W. v. Lee's Summit School District* that a blog with racist and sexually explicit comments about classmates not only disrupted class but jeopardized the emotional well-being of students.⁵ However, not all First Amendment cases involving online speech led to similar holdings. For instance, fake online profiles of school principals, albeit vulgar and embarrassing, were considered to be protected under the First Amendment because the profiles didn't disrupt school activities. A similar holding occurred in *B.L. v. Mahanoy Area School District* because the speech—in

this case, a Snapchat post containing vulgar messages about a high school cheer team—was created off campus and did not substantially disrupt school activity (Engle).

Needless to say, however, students do have a reduced expectation of privacy when in school, as outlined by the holding of the *New Jersey v. T.L.O.*⁷ case. As Justice White wrote in the majority opinion, “Against the child’s interest in privacy must be the substantial interest of teachers and administrators in maintaining discipline in the classroom and on school grounds” (Cornell Law School). The Court emphasized the standard of “reasonableness,” holding that the school district acted *in loco parentis* and had reasonable grounds for search and seizure when suspecting that a student violated the law or school rules. While the *T.L.O.* case applied this standard of “reasonableness” to a student’s Fourth Amendment right in a pre-social media era, it does have modern implications as well. When a school district searches a student’s social media account outside of school hours and disciplines a student based on the content from that post, that action not only teeters on the brink of violating the standard of “reasonableness” set as precedent, but a student’s right to free speech as well.

Therefore, the question is not whether a school district has an inherent right to discipline students for online behavior; arguably, a school district can and should discipline students, following proper procedural due process, when online behavior threatens the security and well-being of fellow students. Rather, the question becomes whether a school district acts within its lawful reach when punishing students for online behavior that is both unrelated to school activity and made off school grounds. As Justice Fortas wrote for the majority opinion in the *Tinker* case, “It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate...” (American Civil Liberties Union). The question that remains, however, is where do the schoolhouse gates begin when referencing the world of technology? Through selective incorporation and the due process clause of the Fourteenth Amendment, as well as legal precedents set by previous Court rulings, students have been afforded many of the same protections from school districts as an American citizen from the federal and state governments. Only time will tell whether these protections extend to students in the world of technology, but when deciding for future cases, it is imperative to juxtapose the ideals of our nation with our rapidly changing society. Otherwise, we not only ignore legal precedent but jeopardize the inherent rights of a student as well.

¹ *Barron v. Mayor & City Council of Baltimore*, 32 U.S. 243 (1833)

² *Gitlow v. New York*, 268 U.S. 652 (1925)

³ *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969)

⁴ *Wynar v. Douglas Cty. Sch. Dist.*, 728 F.3d 1062 (9th Cir. 2013)

⁵ *S.J.W. v. Lee’s Summit R-7 School Dist.*, 696 F.3d 771 (8th Cir. 2012)

⁶ See *Bell v. Itawamba County School Bd.*, 799 F.3d 379 (5th Cir. 2015)

⁷ *New Jersey v. T.L.O.*, 468 U.S. 1214 (1984)

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U.S. Constitution, Amend. I, III, IV, V, VII, IX, XIV.

Asia Morgenstern's Winning Essay: Winner of a \$2,000 Scholarship:

Freedom of speech is arguably one of the most important constitutional rights. However, despite being so important, determining what is considered “free speech” is complicated, especially in schools. Although schools do need to be able to educate students adequately, schools cannot discipline students for social media posts that are both unrelated to school activity and made off of school grounds without infringing on the students’ First Amendment rights. This is largely due to the limits of school jurisdiction, as well as the substantial disruption standard established by the landmark Supreme Court case, *Tinker v. Des Moines Independent Community School District* (1969), and reinforced by numerous other federal court rulings.

Because a school’s jurisdiction only reaches so far, schools must honor students’ free speech rights. The concept of *in loco parentis*, the Latin term meaning “in place of parent,” speaks to the jurisdiction of schools.¹ Schools can only decide what students can and cannot say when the students are in school and under the school’s guidance. Once the students leave the school, its grounds, or any school-sponsored event, students are then under the guidance of their parents. American Civil Liberties Union (ACLU) staff attorney Aden Fine also argued this same concept, stating also that internet speech is protected just as other forms of speech are.² Because of *in loco parentis*, this dramatically limits what schools can limit or punish in terms of free speech. Thus, if students create off-campus social media posts, schools must honor the students’ right to free speech.

However, some argue that schools should punish students who defame staff members or who instigate violence, even if it is outside of school. In the 2010 joint rulings of *Layshock v. Hermitage School District* and *J. S. v. Blue Mountain School District*, the full Third Circuit Court of Appeals ruled in favor of both students. In both cases, the students had created online parodies of their respective principals. These social media posts were both unrelated to any school activity and made outside of school, yet in both cases, the schools punished the students. However, in both cases, the courts, ruling in favor of the students and their rights, awarded both of them large sums of money in damages or attorneys’ fees.^{3,4,5} As seen in both of these cases, the courts have twice decided that schools cannot punish students, even though the students went so far as to defame their principals. In a very different ruling, the Second Circuit District court judge ruled in *WeedSPORT Central School District v. Wisniewski* in favor of the school district. An eighth-grader had sent a message to friends containing the words, “ ‘Kill Mr. VanderMolen,’ ” who was the English teacher, paired with an image of a pistol firing at a man’s head. The judge ruled that the message “was not protected speech because it constituted a true threat.”⁶ In this case, it appears that the courts allow punishments for students who instigate violence over social media, with the caveat that a true threat must actually be present. However, in terms of students’ First Amendment rights, true threats are not even protected, so any school action towards discipline of such threats is not an infringement of the students’ rights.

The substantial disruption standard derived from the *Tinker* case also adds severe restrictions on what schools can punish; unless the standard is met, a school punishment is a violation of a student’s First Amendment right. The substantial disruption standard essentially states that only conduct that substantially interferes with the school’s operation can be punished.⁷ In the 2010 *J. C. v. Beverly Hills Unified School District* case, a court ruled that the school could not punish the student for the posted YouTube video. Even though J. C.’s video bullied another student, the court found that there was no substantial disruption nor any reasonably foreseeable threat of causing a substantial disruption. The court held that the concerns of the bullied student’s parents, having five students miss classes, and the general fear of students gossiping could not warrant a substantial disruption, and therefore, the school could not punish the student.

In the aforementioned *J. S. v. Blue Mountain School District* case, the court had found that J. S.’s school could not punish the student because of the substantial disruption standard.

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Although some would argue that the MySpace parody caused a substantial disruption, the court decided that five or six students discussing it in class with a teacher repeatedly telling them to stop, two other students reporting the parody to other teachers, and the school counselor having to reschedule appointments only were “general rumbblings,” not a substantial disruption. Therefore, any punishment violated the student’s rights.⁸ In both of these cases, the courts have set fairly high bars for what constitutes a “substantial disruption,” as opposed to “general rumbblings.” Due to these high bars, in most cases, it appears that schools must concretely prove that a substantial disruption has occurred in order to punish students’ social media posts. Thus, unless the student is actually instigating violence, schools cannot punish students for their social media posts, without violating the students’ First Amendment rights.

Freedom of speech is arguably one of the most important constitutional rights. Because it is so important, schools must instill in their students that importance. They can do this by showing how much the school itself cares about free speech. Whether or not a school does care, schools cannot discipline students for their unrelated social media posts made off of school grounds without infringing on the students’ First Amendment rights. In the words of the comedian, Mark Thomas, “[f]ree speech is the cornerstone to every right we have.”

¹ *In loco parentis*. (n.d.). The Free Dictionary. Retrieved March 13, 2021, from <https://legal-dictionary.thefreedictionary.com/in+loco+parentis>

² Magid, L. (2010, February 25). *When schools can discipline off-campus behavior*. SafeKids.com. <https://www.safekids.com/2010/02/25/when-school-can-discipline-off-campus-behavior/>

³ ACLU Pennsylvania. (n.d.). *Layshock v. Hermitage School District*.

<https://www.aclupa.org/en/cases/layshock-v-hermitage-school-district>

⁴ McCarthy, M. (n.d.). *Layshock v. Hermitage School District*. Education Law Association.

<https://www.educationlaw.org/featured-caselaw/6526-layshock-v-hermitage-school-district>

⁵ ACLU Pennsylvania. (n.d.). *J.S. v. Blue Mountain School District*.

<https://www.aclupa.org/en/cases/js-v-blue-mountain-school-district>

⁶ Magid, L. (2010, February 25). *When schools can discipline off-campus behavior*. SafeKids.com.

<https://www.safekids.com/2010/02/25/when-school-can-discipline-off-campus-behavior/>

⁷ Hudson, D. L. (n.d.). *Substantial disruption test*. The First Amendment Encyclopedia.

<https://www.mtsu.edu/first-amendment/article/1584/substantial-disruption-test>

⁸ Shipley, G. (n.d.). *Cyber misconduct, discipline, and the law*. Fagen Friedman & Fulfroost.

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Gabrielle Elizabeth Lego's Winning Essay: Winner of a \$1,000.00 Scholarship:

Defined in the Constitution under the First Amendment is a list of the five freedoms that are guaranteed to all people: speech, religion, press, assembly, and the right to petition. All of these freedoms hold great value, however, there is one that stands out more than the others when debating the question: "Is it a violation of a student's first amendment right to be disciplined by a school district for making a social media post which is unrelated to a school activity and made off of school grounds?" That is the freedom of speech. Because of this freedom, a student should be allowed to make social media posts on activities unrelated to school activities off school grounds without being punished by the school, as long as the post does not disrupt students' learning at school and the lives of other students are not threatened.

To begin, the number of Supreme Court cases that address the First Amendment is vast and it continues to grow as the speech of Americans is questioned on a day to day basis. With social media also playing a bigger role in the lives of Americans, there are more cases that deal with social media rights in regard to the First Amendment as well. For example, the *Layshock v. Hermitage School District* case, which took place in the neighboring county of Mercer County. This case presented a debate over whether or not the schools actions against Layshock, who had created "an online parody of his principal" were in violation of the First Amendment. The school district issued Layshock "a 10-day, out-of-school suspension" as well as ordering "him to finish high school in the Alternative Education Program and forbid him from attending his own graduation in the spring." Eventually, the case made it to the Third Circuit Court of Appeals and was again ruled in favor of Layshock. The school district felt that it should be taken further and tried to appeal "the ruling to the US Supreme Court." However, the Supreme Court "declined to hear the case, leaving the 2011 ruling in favor of the students' free speech rights to stand."¹ Because Layshock was off the school grounds and used a computer not-affiliated with the school to make the profile, it was ruled that he did have the right to make the post. Along with those reasonings, he was also protected by the First Amendment "because it did not trigger a substantial disruption of the educational process."²

Similar to the freedom of speech is the freedom of expression, which is also guaranteed to Americans under the First Amendment. The Supreme Court ruling of the *Tinker v. Des Moines* case was influential in the ruling of the above *Layshock v. Hermitage School District* case. Although the *Tinker* case dealt with students wearing black armbands to school in protest of the Vietnam War, the ruling of the case can help readers better understand the ruling of the *Layshock* case. The school feared that the wearing of the armbands would disrupt the learning occurring at the school. However, the Supreme Court ruled that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate."³ Even though the school feared that the students' education would be halted from the distraction of the armbands, the court ruled that the students had the right to wear them. The reasoning being they brought no harm to anyone or anything at the school, they were not distracting the students from learning, and students did have the constitutional right to wear them protected by the First Amendment. This ruling was influential in the decision of the *Layshock* case because it helped to prove that if there was no immediate distraction or disruption to the learning of the students, the freedom of speech or expression would be protected by the First Amendment. Therefore, even though *Tinker v. Des Moines* did not cover the topic of the First Amendment and social media postings, it provided a similar ruling on a different topic. The ruling helped determine that education not being disrupted by the students' attempts of free speech and expression is constitutional.

In both the *Layshock v. Hermitage School District* and the *Tinker v. Des Moines* cases, it is clearly seen that Americans have great freedom over speech and expression. The rulings of these cases can be very controversial, such as *Layshock v. Hermitage School District*, however it is important to remember that freedom of speech is something guaranteed to every citizen in the Constitution. Some may argue that that rulings should have been in favor

of the school district because the profile created by Layshock was unnecessary and was in turn “bullying” someone else, who happened to be his principal. However, when looking at the case from a constitutional over moral standpoint, it can be concluded that Layshock did have a right to create the postings that he did. His post was made off school grounds, unrelated to a school activity, and did not disrupt education therefore concluding it a violation of the student’s First Amendment rights for the school district to punish him.

In contrast to the two cases already presented, *Wynar v. Douglas City School District* presented a case where the school district’s actions of suspension and expulsion from school were not a violation of the student’s First Amendment rights. Wynar sent many messages to friends in his school, although it was done off school grounds and not-affiliated with school technology, about a threatened school shooting, naming specific people. When his friends reported this news to school officials, Wynar was suspended from school. Wynar tried to plead that his First Amendment rights were being stripped from him, however, the court ruled that the school had the right to punish him for these actions “because the messages presented a real risk of significant disruption to school activities and interfered with the rights of other students.”⁴ Under these circumstances, it was okay for the school to discipline a student for a social media post because it interfered with the safety of other students and the school district itself.

Although some posts on social media can be insensitive to the feelings of others, as long as the post does not disrupt student’s learning in school and does not present harm for other students or the school, a student should have the freedom to make posts unrelated to school activities off school grounds without being punished by the school. This idea that students should have the right to free speech as long as there are no threats along with it is seen in many places. One example is found in this quote by Mike Leach. He states, “Freedom of speech should be wide open as long as it doesn’t incite violence.” This statement supports the idea that students have a right to post on social media as long as no one is threatened or hurt in the process, which also could cause a disruption to education. Because social media is something that is so new to our nation, it is hard for us to understand how the courts will rule on these cases. In fact, there are currently many cases dealing with social media and First Amendment rights awaiting their trials by the Supreme Court. However, it is certain that when these trials occur the court will do their best to support the constitutional freedom granted to all under the First Amendment: the freedom of speech.

¹ “Layshock v. Hermitage School District,” ACLU Pennsylvania, July 22, 2019, <https://www.aclupa.org/en/cases/layshock-v-hermitage-school-district>.

² Martha McCarthy, “Layshock v. Hermitage School District,” Education Law Association, July 15, 2017, <https://www.educationlaw.org/featured-caselaw/6526-layshock-v-hermitage-school-district>.

³ “Facts and Case Summary - Tinker v. Des Moines,” United States Courts, accessed March 14, 2021, <https://www.uscourts.gov/educational-resources/educational-activities/facts-and-case-summary-tinker-v-des-moines#:~:text=In%20a%207%2D2%20decision,speech%20might%20disrupt%20the%20learning>.

⁴ “Wynar v. Douglas Cty. Sch. Dist. - 728 F.3d 1062 (9th Cir. 2013),” LexisNexis, accessed March 15, 2021, <https://www.lexisnexis.com/community/casebrief/p/casebrief-wynar-v-douglas-cty-sch-dist>.

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