

# Primary Source

## *Morse v. Frederick* (2007) Majority and Dissenting Opinions

### **Chief Justice John Roberts's Majority Opinion**

“As Morse later explained in a declaration, when she saw the sign, she thought that ‘the reference to a ‘bong hit’ would be widely understood by high school students and others as referring to smoking marijuana.’...

We agree with Morse. At least two interpretations of the words on the banner demonstrate that the sign advocated the use of illegal drugs...

Governmental interest in stopping student drug abuse—reflected in the policies of Congress and myriad school boards...allow schools to restrict student expression that they reasonably regard as promoting illegal drug use.

School principals have a difficult job, and a vitally important one. When Frederick suddenly and unexpectedly unfurled his banner, Morse had to decide to act—or not act—on the spot. It was reasonable for her to conclude that the banner promoted illegal drug use—in violation of established school policy—and that failing to act would send a powerful message to the students in her charge, including Frederick, about how serious the school was about the dangers of illegal drug use. The First Amendment does not require schools to tolerate at school events student expression that contributes to those dangers.”

### **Justice John Paul Stevens's Dissenting Opinion**

“In my judgment, the First Amendment protects student speech if the message itself neither violates a permissible rule nor expressly advocates conduct that is illegal and harmful to students. This nonsense banner does neither, and the Court does serious violence to the First Amendment in upholding—indeed, lauding—a school’s decision to punish Frederick for expressing a view with which it disagreed...”

First, censorship based on the content of speech, particularly censorship that depends on the viewpoint of the speaker, is subject to the most rigorous burden of justification...

Second, punishing someone for advocating illegal conduct is constitutional only when the advocacy is likely to provoke the harm that the government seeks to avoid...

The Court rejects outright these twin foundations...because, in its view, the unusual importance of protecting children from the scourge of drugs supports a ban on all speech in the school environment that promotes drug use. Whether or not such a rule is sensible as a matter of policy, carving out pro-drug speech for uniquely harsh treatment finds no support in our case law and is inimical to the values protected by the First Amendment.