

**AMER GOV BMARK 2**  
**SUPREME COURT CASE ANALYSIS**

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**CONTRACT**

1. Tinker v. Des Moines
    - John and Mary Beth Tinker were suspended from school because they wouldn't take their black armbands to protest the Vietnam War. I picked this case because it's kind of like TLO's case where the setting is at school and some amendments are bend because of certain situations. For my repository and case analysis, I will generate a website where all of these information will live in.
  2. Regrets of the U. of California v. Bakke
    - Allan Bakke was rejected to the medical school of the University of California at Davis and a lot of minority who has lower grades than him got accepted. I picked this case because I'm in the process of applying to colleges and this is a pretty interesting topic to learn from. For my repository and case analysis, I will generate a website where all of these information will live in.
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**CASE 1: Tinker v. Des Moines**

John Tinker and his sister Mary Beth Tinker decided along with their parents to protest the Vietnam War by wearing black armbands to their Des Moines schools during the Christmas holiday (1968). Upon learning of their intentions, and fearing that the armbands would provoke disturbances, the principals of the Des Moines school district resolved that all students wearing armbands be asked to remove them or face suspension. When the Tinker siblings wore their armbands to school, they were asked to remove them. When they refused, they were suspended until after New Year's Day.

**The Decision**

The Supreme Court favor the Tinkers. Justice Fortas was in charge of the majority opinion. He stated that students has the constitutional rights to freedom of speech while they are in school. However with that being said, Justice Black and Harlan did not agree and dissented the decision. The majority votes are in favor of the Tinkers, 7-2. The Court decided that even in school, students exercise their freedom of speech. Their reasoning was, "students (n)or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." With that reason, the student's constitutional rights are protected by the first amendment even if they're in school. So if the school officials have any other problem with what the students are exercising, they do not have any valid reason for limiting the students and suspending them.

The ruling decision justified their decisions about the Tinker wearing the armbands by stating that there were no any material or substantial disruptions. They were "silently" protesting about their thoughts and opinions about the Vietnam war. The armbands acts as a "silent, passive expression of opinion". It is not harming any other students or disturbing classes because of their decision to wear armbands. They are just merely exercising their freedom of speech. Also, it was noted that the school officials only targeted anti-war armbands, but did not prohibit any other symbols in relation of political messages. With that all said, the Court concludes this action "the prohibition of expression of one particular opinion ... is not constitutionally permissible, school officials do not possess absolute authority over their students." Meaning, teachers cannot prevent their students to not practice their constitutional rights.

However on the flip side, the dissenting opinion voiced out that "it is a myth to say that any person has a constitutional right to say what he pleases, where he pleases, and when he pleases." In Justice Black's opinion, the Tinkers were still affecting their peers by "divert[ing] them to thoughts about the highly emotional subject of the Vietnam War." So in conclusion, the Tinker's armbands did cause a disturbance because it attracts other students

while they should have been doing their class work and this is what the principal and student faculty was trying to prevent.

**The following who are in favor of the Tinkers:**

Earl Warren  
William Douglas  
William Brennan  
Potter Stewart  
Byron White  
Abe Fortas  
Thurgood Marshall

**Dissenting opinion:**

Hugo Black  
John Harlan

**Commentary**

I really think that this is a nice case to study because just like the question that is being asked above, does going to school means the students are giving up their constitutional rights? T.L.O and Tinker's case has been great examples to state that we are not giving up those rights and that we can still practice it. However, there are still school rules and students are under the school's watch so they still have to follow the rules and instructions. But then again, when does our constitutional rights in the school ends? When does it clash with the school rules? Learning about this case made me think so much more about my rights and how it can affect the way of learning in school. It opened me up to another point of view about how to practice my rights and how to not blend it in with the rules at school.

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**CASE 2: Regrets of the U. California v. Bakke**

Allan Bakke is a caucasian man who applied two times to University of California Medical School at Davis and was also rejected twice. In the admission process of University of Cali, they reserved sixteen places in each entering class of one hundred for "qualified" minorities. However, Bakke's qualifications like his GPA and test scores were much more higher than the minorities that the school admitted. This is the reason why Bakke first appealed a case in the California courts, then in the Supreme Court, because he was excluded from admission solely on the basis of race.

**The Decision**

The decision was split in half. Five members of the Court voted for University of California to admit Bakke in their medical school. The five judges who voted agreed that the racial selection violated both the Civil Rights Act 1964 and the Equal Protections clause of the Fourteenth Amendment. Their conclusion about the case was someone's race should not be the sole base on why University of California admits students. It should be based on the academical potential and success.

Justice Powells stated that "preferring members of any one group for no reason other than race or ethnic origin is discrimination for its own sake. This the Constitution forbids." He reasoned that the quota system that relies on admitting specific percentage of spaces to racial or ethnic groups were always unconstitutional. This is because applicants who are not part of the racial group could not participate even though their academic records match the school's standards.

Though Powell acknowledge that certain schools or states look into the applicant's racial background, it should not be the base of why the applicant is going to be admitted or not, "the Constitution does not prohibit any consideration of race in admissions decisions." He understands that the school is just trying to bring in more minority in the school to make it more friendly and for more minority students to pursue a career in medicine. However, Powell states that, "In order to use race as an element in making admissions decisions, a state university must be able to justify the use under the standard of strict scrutiny. This means that admissions programs that consider race must be narrowly tailored to advance a compelling government interest in order to be constitutional. "

The following are in favor of Bakke:

William Brennan  
Byron White  
Thurgood Marshall  
Harry Blackmun

Those who are not in favor:

Warren Burger  
Potter Stewart  
William H. Rehnquist  
John Paul Stevens

Commentary:

Even though I'm part of the minority, I still agree what the judge (Powell) was talking about. Racial background should be a factor and not the soul base on why someone was admitted. It is nice to know what the admission officers were trying to pursue, however it is indeed unfair to the people who had great academical records but was merely rejected because of his or her racial background. I really ended up thinking that who you are can make you or break you. Thinking about it now since I'm applying to colleges, it makes me wonder if there are some percentages that universities needs to fill up to have diversity in their school.

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