

Ted Laggard,
Petitioner.

v.

Pleasantville Township School District,
Respondent.

Given the intersect between social media and everyday life and given recent current events involving social media content, platforms such as Facebook, Twitter and Instagram are struggling with how much to police content. Civil speech and decorum must be weighed against freedom of personal expression, a weighing that becomes increasingly difficult given that the demarcation between public and private communication is, at best ambiguous, and becoming more so as work (school) and home life boundaries dissolve further.

In the spring of 2019, the Pleasantville Township School District (“School District”), (a governmental subdivision of the State of Columbiana) issued new guidelines related to social media use. These guidelines were directed at School District employees, students, and parents; all were required to read the Social Media Guidelines (among other policies and procedures) and to sign a document attesting to their reading and understanding of the guidelines. (Relevant portions of these guidelines are attached.)

The start of the 2019/2020 school year at Pleasantville High School (a school in the Pleasantville Township School District) began much as any other school year. So too that fall, as was becoming increasingly common, the high school’s gay, lesbian, and bisexual students were experiencing greater hostility regarding their sexual orientation from a significant portion of the student body. The uptick in incidences had become progressively more obvious over the last two or three years.

In response, the Gay/Straight Alliance (“Alliance) at Pleasantville High School decided to sponsor a “Day of Tolerance” at the school to coincide with 2019’s National Coming Out Day. For weeks, morning announcements included information about the Day of Tolerance with a request to all students to wear a t-shirt or other article of clothing to school that day, expressing support (or, at the least, tolerance) of gay, lesbian, and bisexual students. Additionally, the Alliance planned an “Open House”, which would take place in a science classroom and would begin ten minutes after the last school period of the day. The purpose of the Open House was to reach out to gay, lesbian and bisexual students at the high school and to encourage “straight friends” to get involved with the Alliance in support of their gay classmates.

Eschewing this request, Ted Laggard chose that day to wear his “You Can’t Be Christian and Gay” t-shirt. Not surprisingly, Mr. Laggard did not even make it out of homeroom before he was summoned to the office of Ralph Falwell, the principal of Pleasantville High School. Mr. Falwell asked Mr. Laggard to go home and change his shirt before

returning to school as the shirt was offensive and not in keeping with the intent of the day. Mr. Laggard refused, stating First Amendment rights and further noting that the speech used no offensive language nor sought to incite violence. It merely expressed his opinion, which he acknowledged might be unpopular but that he was free to express under the laws of the country. Being a thoughtful man, Mr. Falwell listened to Mr. Laggard's concerns before replying that the courts often permit school officials to limit the rights of students under certain circumstances. Mr. Falwell stated he was concerned that the message could result in a confrontation with his classmates and it was his job to balance the rights of all students at school.

Regardless, after discussions with the central school district office, it was decided to let Mr. Laggard finish out the school day wearing the shirt. The school safety officer was alerted and was on "heightened alert" all day but no confrontation was reported and the school day ended peacefully. Later that night, Mr. Falwell sighed in relief at having "dodged one bullet" that day.

Unbeknownst to Mr. Falwell, however, Mr. Laggard had not left school at the end of the school day but had attended the Alliance's Open House. He was still wearing his beloved t-shirt.

Shortly after arriving, Mr. Laggard made his way to Cheri Chainey, the President of the Alliance. Ms. Chainey, wearing a t-shirt stating, "We ♥ our Gay and Lesbian Brothers and Sisters", was deeply engrossed in a lively conversation with another attendee. Without calling any attention to himself, Mr. Laggard snapped a selfie alongside Ms. Chainey under a banner reading, "Pleasantville High School – Gay/Straight Alliance Day of Tolerance". Mr. Laggard left immediately after snapping the selfie without speaking to any of the attendees or causing any provocation.

Later that night, Mr. Laggard posted the picture on his Twitter account with a caption reading, "Screw their Day of Tolerance." (The message on Mr. Laggard's shirt was clearly visible; the message on Ms. Chainey's shirt was not due to how she was turned in conversation with the other attendee.) A friend of Ms. Chainey's saw the post and immediately texted her. Ms. Chainey was appalled by the image on Twitter, which clearly showed her face, if not her shirt's message.

The next morning, Ms. Chainey proceeded immediately to the principal's office and filed a detailed, written complaint. The complaint noted that the posting was not in keeping with the spirit and intent of the Day of Tolerance, and thus likely led viewers to wrong conclusions about the event and the school. Further, Ms. Chainey noted that she had not consented to having her photograph taken with Mr. Laggard, let alone to having the picture posted on social media. Ms. Chainey stated she found the picture offensive and, in fact, violated her First Amendment rights as it could be reasonably construed from the posting that Ms. Chainey condoned the message of Mr. Laggard's shirt and the message captioning the picture. Finally, Ms. Chainey pointed out that Mr. Laggard's posting of the picture violated the School District's Social Media Guidelines - the picture had obviously

been taken at school during a school event while being critical in an unconstructive manner and hurting her and her gay, lesbian, and bisexual classmates.

Mr. Laggard was immediately suspended. He challenged his suspension on the grounds that the action violated his First Amendment rights of free speech.

Mr. Laggard sought a preliminary injunction in federal district court declaring the Social Media Guidelines were not controlling outside of in-school postings, were vague on their face and unconstitutional as applied to his circumstances. He also sought to have his suspension reversed and expunged from his permanent record and to be accorded a written apology from the school principal.

The School District moved for summary judgment on the grounds that the guidelines were constitutional in that they balanced the First Amendment rights of all students and that the policy was appropriately applied in Mr. Laggard's case. Mr. Falwell testified that he believed the social media post violated both the "letter and the spirit" of the guidelines. He further testified that he was concerned that the post impinged on Ms. Chainey's rights as the picture was taken and posted without her knowledge or consent. Finally, he was concerned that the post's message could result in provoking future physical confrontations between Mr. Laggard and other members of the school community.

The District Court denied the motion for summary judgment and after a trial on the merits, found for Mr. Laggard. On appeal, the appellate court, by a 2-1 majority, upheld the judgment of the District Court.

Given the increasing ambiguity in law in this area, the School District petitioned the Supreme Court for a writ of *certiorari* to address the following question:

Did the school, in suspending Mr. Laggard for the Twitter post, violate his Free Speech rights under the First Amendment?

The Court has granted the School District's motion.