

SNIFFEN & SPELLMAN, P.A.

SCHOOL LAW ALERT

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The School Board of Alachua County Prevails in First Amendment Case Involving “Islam is of the Devil” T-Shirts in School

On September 30, 2011, the United States District Court for the Northern District of Florida, held that the School Board of Alachua County (“School Board”) did not violate the constitutional rights of several students who wore inflammatory t-shirts to school and school-related events with the phrase “Islam is of the Devil” appearing on the t-shirts. Sapp v. School Board of Alachua County (Case No. 1:09cv242-SPM/GRJ)(N.D. Fla. Sept 30, 2011).

The case arose after Plaintiffs were sent home from school for wearing the t-shirts. The case drew nationwide attention since all of the Plaintiffs were members of the controversial Dove World Outreach Center (“Dove”) in Gainesville, Florida. Dove is best known for its Senior Pastor, Terry Jones, who planned an “International Burn a Koran Day” in September 2010. The inflammatory t-shirts were created and worn as part of Dove’s efforts to publicly attack Islamic culture in the community and, ultimately, worldwide. Although Mr. Jones never went through with burning a Koran on September 11, 2010, several weeks later, Assistant Pastor and lead Plaintiff Wayne Sapp did burn one, a video of which was posted on the Internet. Days after the Koran burning, several United Nations staff were killed in Afghanistan when protestors attacked a U.N. compound.

Plaintiffs challenged the School Board’s dress code and argued that it violated their constitutional free-speech rights. During the course of the case, Plaintiffs filed a motion for a preliminary injunction seeking prospective relief related to the dress code; however, the School Board modified its dress code to require students to wear uniforms. As a result, the Court denied the Plaintiffs’ motion for a preliminary injunction as moot.

Ultimately, the Court ruled in favor of the School Board and found that as a matter of law it did not violate the constitutional rights of any of the Plaintiffs. In Judge Mickle’s discussion regarding the regulation of student speech, he acknowledged in accordance with the United States Supreme Court that “First Amendment rights of school students are not as broad as the rights of adults in public forums.” He therefore concluded that while students may have First Amendment rights in a public forum, “[a] school is not a public form.” Thus, the students were not permitted to use the school as “a platform to gain attention.”

With respect to the message displayed on the t-shirts, Judge Mickle reasoned that the t-shirts caused a disruption at schools and after-school events in the District. He characterized the message as being inappropriate for school, not conducive to civil discourse on religious issues, and simply “akin to saying that the religion of Islam is evil and that all of its followers will go to

hell.” Therefore, Judge Mickle held that allowing the Plaintiffs to wear the t-shirts would be “inconsistent with the schools’ mission to inculcate values of civil speech and decorum among students of ‘differing races, creeds, and colors.’” Based on the overall circumstances of the case, Judge Mickle ruled that the restrictions on speech imposed by the School Board were reasonable.

Robert J. Sniffen, Michael P. Spellman, and Lindsey L. Dunn of Sniffen & Spellman, P.A. served as counsel for the School Board.

The opinion can be found at the following link: [Sapp v. School Board of Alachua County](#).

News Article: [The Gainesville Sun](#).

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