

25 years of stifled student press freedom deserves attention

I remember sitting with others lucky enough to hear oral arguments before the U.S. Supreme Court in the fall of 1987. It was an important case about educating young citizens, and the first the court heard dealing with a high school newspaper. I also knew it mattered because the student newspaper is the voice of many young citizens in our public schools.

My mistake. This wasn't about the court's earlier mandate that schools foster citizenship education. The Supreme Court said that 18 years earlier in *Tinker v. Des Moines*, and lower courts echoed this for two decades. But this *Hazelwood v. Kuhlmeier* case was not about educating free and responsible young journalists. It was about administrative authority. And power. And it obscured the *Tinker* assertion that students learn citizenship in part through practicing free and responsible speech in school.

Students at Hazelwood East High School, near St. Louis, wanted to publish well-researched stories about the impact of divorce on some of their classmates, and how others were coping with being single mothers. And when the *Spectrum* was ready for publication, the principal removed the two pages carrying the stories.

Cathy Kuhlmeier and two other students took the case to the high court. They lost.

Retreating from *Tinker*, the *Hazelwood* court said public school officials could censor student expression that, while neither disruptive nor harmful to individual students, was – in the court's sweeping decision – inconsistent with the educational

goals of the school.

So began a 25-year tailspin for student expression, and a corresponding increase in the number of restrictive school policies and practices stifling speech. Court after court gave school censors the benefit of the doubt, shifting the burden from “public officials” to the young citizens wishing to express themselves. Students who were told by the *Tinker* court that they do not “shed their constitutional rights ... at the schoolhouse gate” were now required to show that their speech had value and was consistent with educational goals.

The chill began quickly. One year after *Hazelwood*, Mark Goodman, then-director of the Student Press Law Center, said censorship calls to the SPLC were up 22 percent.

“Some principals are censoring things they don’t like, but many more are intimidating students into not covering any issue that may embarrass the school,” he said. “It is most disturbing that students have begun themselves to censor substantive issues from their student newspapers out of fear of what their school officials might do.”

Such were early signs of what would be a generation of students taught to be deferential to authority, and to meekly suppress speech that adults in their school society deemed unsettling or counter to the school’s mission.

Surprisingly, this didn’t seem to concern professional journalists. They reacted to *Hazelwood* in a way that stunned supporters of the student press, dismissing the case by simplistically equating public school officials and newspaper publishers. A flood of editorials and professional commentary supported the administrative censorship *Hazelwood* endorsed. In a scolding tone, many said that student journalists should learn what professionals know: that what the publisher (or a school official playing that role) says is what must be followed. But, as federal courts have held, journalists

erroneously equated the autonomy of a newspaper's private owner with the Constitution-bound obligations of a taxpayer-supported administrator in a public school.

Professionals seemed to ignore the fact that the Supreme Court itself told student journalists to model their behavior on that of professionals. Few "real" journalists considered whether student journalists also might have interesting or important information to share, might want to question decision-makers, or might have valid reasons to discuss controversial issues important in their societal audience: their classmates.

High school journalists across the country received little support from their professional role models in the weeks following the *Hazelwood* decision. *Editor & Publisher* reported Jan. 23, 1988, that its random national survey showed newspaper editorials "overwhelmingly supported the Supreme Court's 5-3 ruling upholding censorship of school-owned newspapers. ... Freedom of the press, a consensus of the editorials said, is for those who own one."

"It is a decision in favor of editing – a process that goes on in real newspapers in the real world today," the *Detroit News* said.

The *Chicago Sun-Times* wrote that if the decision had gone the other way, the interpretation of the Constitution would have been "startlingly new ... and ridiculous." The paper also discounted arguments that a chilling effect would result: "We can only urge these worrywarts to stop conjuring up worst-case scenarios to justify unacceptable license."

But some newspapers did worry about the chilling effect. Editorial page editor Ed Higgins of the *St. Louis Post-Dispatch* said: "There is a right of freedom of expression – and the majority opinion ... trampled all over it." He said the decision "gave school boards more power than is desirable or

necessary. We don't think they have just an arbitrary right to prevent the expression of any controversial issue."

Others worried about *Hazelwood's* impact. Paul McMasters, then-chairman of SPJ's Freedom of Information Committee and deputy editorial director of *USA Today*, questioned editorial support of *Hazelwood*. In the March 1988 issue of the *Quill*, McMasters rhetorically asked: "Why should we 'real' journalists care? Because the court's decision means that many aspiring, now disgusted, journalists will turn their talents to [other] careers. ... Those who hang in will join our ranks well-schooled in cafeteria journalism, unwilling to question authority or challenge orthodoxy and quite prepared to churn out stories that are often blind and always bland."

Journalists should monitor and report on censorship in the high school level, McMasters said, and "never miss an opportunity to remind school officials that free speech works much better as a tool for bright young questioners than it does as a distant memory for fearful old fossils."

This echoes Justice William Brennan's dissenting opinion in *Hazelwood*. Censorship "in no way furthers the curricular purposes of a student newspaper," Brennan wrote, "unless one believes that the purpose of the school newspaper is to teach students that the press ought never report bad news, express unpopular views or print a thought that might upset its sponsors."

And now a generation of students who were told that their ideas and their voices didn't really matter is coming to college journalism classes, complacent and with matter-of-fact deference to authority.

"We're raising a generation of sheep," according to David Cullier, director of the University of Arizona's School of Journalism and president-elect of the Society of Professional Journalists.

In November 2011, at the University of North Carolina, he told those at a *Hazelwood* symposium that students begin their college work “completely unprepared for what journalism is about. They think it’s OK to be told what to print and not to print. They don’t challenge authority like they should. ... We have to retrain them.”

What can the professional press do? One early suggestion came from Lyle Denniston. While covering the Supreme Court for the *Baltimore Sun*, he wrote in the March 1988 *Washington Journalism Review* that “the students’ only hope [is] recruiting the grown-ups in the regular press as their allies.”

A similar call came just months ago. Student press rights advocates Candace and John Bowen of Kent State University, writing in the fall 2012 *Adviser Update* from the Dow Jones Newspaper Fund, said that what’s needed is “a concerted national effort to educate those in the commercial media about why they should support robust, uncensored ... scholastic media.”

Maybe the student press – the infrequent instance of a “rebellious” story that dares to challenge mainstream school policies and practices – remains beyond the radar of professionals on this 25th anniversary of *Hazelwood*. But those who cherish their role of journalist should not retreat from free-speech battles in their community’s schools. Those confrontations undoubtedly will increase in number during this era of social media.

School officials who are quick to impose the limits *Hazelwood* condones should be worried today about the newfound freedom social media give to these students, their thoughts and expression. It should be no surprise that high school students view social media as a way to break through the barrier school officials have built to “protect” students from using school-sponsored media – including the school newspaper – to talk to

one another about mutual interests and concerns.

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