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McBreairy v. Miller

United States Court of Appeals, First Circuit - February 21, 2024 - F.4th - 2024 WL 702383

Plaintiff brought action against local school board and board chair, alleging that board's speech restrictions, which had been applied to plaintiff and had resulted in his removal by the police from two board meetings, violated the First Amendment and the Maine Constitution's free-speech and petition protections and seeking damages and injunctive relief.

The United States District Court for the District of Maine denied plaintiff's emergency motion for a temporary restraining order (TRO) and preliminary injunction. Plaintiff appealed.

The Court of Appeals held that plaintiff lacked Article III standing to seek injunctive relief because he failed to allege that he intended in the future to engage in conduct that would violate the challenged speech restrictions.

Plaintiff failed to allege in his complaint that he intended in the future to engage in conduct that would violate school board's restrictions on speech at board meetings, and plaintiff thus lacked standing under Article III to seek injunctive relief in action challenging board's restrictions under the First Amendment; present-tense allegations about the restrictions at issue merely alleged that the restrictions were in continued operation, plaintiff's allegation that he "reasonably fears imminent injury" was a mere legal conclusion, and the fact that plaintiff requested injunctive relief was insufficient to establish his future intention to engage in conduct that would result in board's application to plaintiff of the restrictions at issue.