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FIRST AMENDMENT - ILLINOIS

Brown v. Chicago Board of Educ.

United States District Court, N.D. Illinois, Eastern Division - September 25, 2013 - F.Supp.2d - 2013 WL 5376570

A middle-school teacher brought action against school board and principal under § 1983 for violation of his right to free speech under the First Amendment after he was suspended without pay for five days for leading a classroom discussion on the word “nigger.” Defendants moved to dismiss.

The District Court held that:

- Teacher stated a First Amendment claim against school board;
- Teacher’s right to lead the discussion was not clearly established; and
- Teacher’s free speech claim precluded a substantive due process claim.

Under the First Amendment, the government is entitled to restrict employee speech that addresses a matter of public concern if it can prove that the interest of the employee as a citizen in commenting on the matter is outweighed by the interest of the government employer in promoting effective and efficient public service.

Under the First Amendment, in evaluating the balance of interests between an employee’s speech as a citizen and of the government employer in promoting effective and efficient public service, courts examine any relevant facts, like whether the speech disrupted relationships with co-workers; whether the speech got in the way of the employee-speaker’s performance of job duties; and the time, place, and manner of the speech.

Allegations by middle-school teacher that he was suspended without pay for five days for leading a classroom discussion of the word “nigger,” stated a claim under § 1983 against school board for violating his right to free speech under the First Amendment. There was no indication that board had a set policy prohibiting such a discussion, or that the discussion was “abusive,” or a disruption to “orderly” classroom education such that it would have violated existing policy.