

# **Bond Case Briefs**

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## **SCHOOLS - MISSISSIPPI**

### **Bell v. Itawamba County School Bd.**

**United States Court of Appeals, Fifth Circuit - December 12, 2014 - F.3d - 2014 WL 7014371**

Public high school student and his mother brought action against school board, superintendent, and principal alleging his suspension and transfer for posting on the Internet a video of him singing a song that alleged that two coaches at school had had improper contact with female students violated student's free speech rights and mother's parenting rights. The District Court granted summary judgment for defendants. Plaintiffs appealed.

The Court of Appeals held that:

- School officials could not reasonably forecast substantial disruption from, and no actual disruption occurred due to, student's posting video, and
- Speech was not a true threat.

School officials may prohibit student speech and expression under the First Amendment upon showing facts which might reasonably have led school authorities to forecast that the proscribed speech would cause substantial disruption of or material interference with school activities, but school officials must be able to show that their actions were caused by something more than a mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint.

Assuming public school could prohibit student's off-campus speech upon forecasting that it would cause substantial disruption of or material interference with school activities, school officials could not reasonably forecast substantial disruption from, and no actual disruption occurred due to, high school student's posting on Internet video of him singing song that alleged that two coaches at school had had improper contact with female students, and therefore, suspension and transfer of student violated his First Amendment speech rights. Song was composed, recorded, and posted to Internet entirely off campus, school computers blocked social networking site, school policy prohibited possession of phones, and there was no commotion, boisterous conduct, interruption of classes, or any lack of order, discipline and decorum at school, as result of student's posting his song.

Public high school student's speech, contained in video posted on Internet of him singing song that alleged that two coaches at school had had improper contact with female students, was not a true threat that was not protected by the First Amendment. Student recorded rap song to draw attention to alleged misconduct but also to attract attention of record labels and potential fans, song was broadcast publicly and not conveyed privately or directly to coaches, and purported threats in song were conditional in nature.