

Bond Case Briefs

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SCHOOLS - FLORIDA

Mech v. School Bd. of Palm Beach County, Fla.

United States Court of Appeals, Eleventh Circuit - November 23, 2015 - F.3d - 2015 WL 7428915

Owner of tutoring business brought action against county school board, alleging violation of his First Amendment right to Free Speech when three schools removed banners for his business from their fences. Both parties moved for summary judgment. The United States District Court granted school board's motion. Owner appealed.

The Court of Appeals held that:

- Schools endorsed banners, and
- Schools exercised substantial control over messages conveyed by banners.

Tutoring business banners hung on schools' fences bore imprimatur of schools, and thus factor regarding whether observers would reasonably have believed government had endorsed message strongly suggested that banners were government speech, as would support finding that Free Speech Clause of First Amendment was not violated when school board removed banners, where banners bore schools' initials, were printed in school colors, identified sponsor as partner, observers who saw banners for tutoring services on school property with imprimatur would reasonably conclude that school was endorsing services, purpose of banner program was to recognize partners that provided vital role in sponsorship, and schools had interest in expressing gratitude, regardless of services or quality of services provided.

Schools exercised substantial control over messages conveyed by banners hung on schools' fences, and thus government's control over message factor strongly suggested that banners were government speech, rather than private speech, as would support finding that removal of tutoring business banners did not violate Free Speech Clause of First Amendment, where schools controlled design, typeface, and color of banners, dictated information contained on banner, regulated size and location of banners, required banners to include school's initials and message "Partner in Excellence," and principals were required to approve every banner before it went on fence, and schools did not allow banners to list anything but sponsor's name, contact information, and preexisting business logo.