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J.S. v. Bethlehem Area School District

**Facts of the Case**

J.S., a minor, and his parents H.S. and I.S. appealed the July 23, 1999 decision of the Court of Common Pleas of Northampton County in which the court agreed with the decision of the Bethlehem Area School District to permanently expel J.S. from its schools.

In May of 1998, J.S. was in the eighth grade at Nitschmann Middle School, which is located within the School District. Sometime prior to May, J.S. created a website on his home computer on his own time. The website, "Teacher Sux," consisted of several web pages that made derogatory and threatening comments about J.S.'s algebra teacher, Mrs. Fulmer, and derogatory comments about Nitschmann Principal, Mr. Kartsotis. On or about July 30, 1998, the school district sent a letter stating its intent to suspend J.S. for a period of three days, which alleged that violations of district policy through three Level III offenses: threat to a teacher, harassment of a teacher and principal and, disrespect to a teacher and principal. After a hearing on the suspension, the district decided to extend the suspension to ten days and began expulsion proceedings against J.S. Based upon its findings, the school board voted to permanently expel J.S. from its schools. J.S. and his parents appealed the board's determination to trial court, which affirmed. On appeal to the Commonwealth Court,

J.S. argued that his constitutional rights were violated, the school district committed errors of law and, the school district's findings of fact are not supported by substantial evidence.

**Decision of the Court**

On July 14, 2000, The Commonwealth Court, No. 2259 C.D. 1999 affirmed the decision of the Court of Common Pleas of

Northampton County.

**Basis of the Decision**

The Commonwealth Court stated that: (1) the expulsion did not violate the First Amendment free speech guarantee; (2) the student was not entitled to a three-month continuance, until Thanksgiving break, to attend expulsion proceeding; (3) the expulsion did not violate equal protection; (4) the student had no expectation of privacy in his website; and (5) the evidence supported decision to expel student.

In reaching its decision the Commonwealth Court based its decision on a number of court cases and references to the school code to support its affirmation of the Court of Common Pleas of Northampton County. In dealing with the issue of the student's claim that his constitutional right of free speech had been violated, the Commonwealth Court made reference to a number of cases dealing with students and their right to free speech. *Tinker v. Des Moines Indep. Community Sch. Dist.; Bethel Sch. Dist. No. 403 v. Fraser; Donovan v. Ritchie; Fenton v. Stear; Beussink By and Through Beussink v. Woodland R-IV Sch. District*. All of these cases illustrate that the courts have allowed school officials to discipline students for conduct occurring off school premises where it is established that the conduct materially and substantially interferes with the educational process. The Commonwealth Court agreed with the lower court when it ruled that student's

website did have a substantial impact on the school community and that the trail court determined correctly that the school district did not violate the student's rights under the First Amendment