

U.S. Supreme Court Upholds Dismissal of ‘Candy Cane’ Case

Attorney says decision based on qualified immunity rather than First Amendment

DALLAS – The Supreme Court of the United States today declined to review an earlier appeals court decision clearing two Texas school principals of claims they restricted the free speech of students in the so-called “Candy Cane” case.

The Supreme Court’s decision not to hear the appeal in *Doug Morgan, et al. v. Lynn Swanson, et al.*, No. 09-40373, follows an earlier ruling from the U.S. Court of Appeals for the Fifth Circuit that the principals should be shielded from the lawsuit based on qualified immunity.

In 2004, elementary students from the Plano Independent School District and their parents filed a complaint in the U.S. District Court for the Eastern District of Texas against Plano ISD and some of its employees based on claims that elementary school administrators restricted their rights to free speech by prohibiting the students from distributing religious-themed gifts at their schools.

Attorney [Tom Brandt](#) of the Dallas law firm of [Fanning Harper Martinson Brandt & Kutchin](#) represented Lynn Swanson, principal of Thomas Elementary School, and Jackie Bomchill, principal of Rasor Elementary School. Mr. Brandt notes that while some court watchers have characterized this as one of the most important First Amendment cases of the past decade, the core legal dispute always has been about the qualified immunity of the principal parties.

“There have been a number of people and organizations who have characterized this as a seminal First Amendment decision,” says Mr. Brandt. “However, as the Court has shown us in today’s decision, the core legal question was not about freedom of expression, but about the necessary protections for two outstanding educators.”

“This type of case is exactly why the tenet of qualified immunity is a part of our legal system. Educators must be allowed to make decisions that are in the best interest of an entire school without fear of individual retribution when the law is unclear,” adds Mr. Brandt. “This ruling brings a tremendous sense of relief to Ms. Bomchill and Ms. Swanson, who have been forced to deal with the specter of this case for far too long.”

While the Supreme Court’s decision brings the *Morgan v. Swanson* appeal to a close, other parts of the case are still to be decided at the appellate and district court levels.

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For more information on the Supreme Court ruling in the “Candy Cane” case, please contact Mark Annick at 800-559-4534 or mark@androvett.com.