

# COMMENTARY

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## Appeals court ruling limits academic speech

Guest commentary

A recent case in the Seventh Circuit Court of Appeals held that First Amendment law allowing high school administrators to review and censor student publications does not apply to college students. Now, a federal court with jurisdiction over the Western United States reached a different result in a similar case, and the Supreme Court elected two weeks ago not to review that case.

The Ninth Circuit Court of Appeals ruled that the University of California could censor and punish a student for writing critical comments in the "Acknowledgments" section of his Masters' thesis.

A three-judge panel heard the case, and two judges found that college students had no greater claim to free speech rights in the curricular context than high school students. Citing a 1988 Supreme Court case, *Hazelwood School District v. Kuhlmeier*, which approved of censorship of high school papers, the court found that the personal acknowledgments contained in an academic document are not subject to any First Amendment protection.

The case began when Christopher Todd Brown, then a graduate student at University of California at Santa Barbara, inserted a "Disacknowledgments" section after his thesis had been approved. The section criticized school officials and then-California Governor Pete Wilson for interfering with his education.

Upon discovery of the critical remarks, the committee revoked its approval of the thesis. Brown was unable to earn his degree and had to spend another year at UCSB. Even when Brown removed some of the "offending" language, the committee still refused to approve it.

Brown contended that the action violated the First Amendment because school officials retaliated against him for his criticism. He also argued the university had singled him out, as numerous other academic papers had been approved containing insults and vulgarities.

Nevertheless, one judge found for the university because, even though the university had a practice of allowing students free reign with regard to statements made in the "acknowledgments" sections, the university had the right to treat the section as academic speech — not entitled to First Amendment protection. Another judge simply said Brown had engaged in deceit by not including the offending section his original submission to the committee.

Writing in dissent, Judge Stephen Reinhardt "vehemently" disagreed with his colleagues. He noted that the court had adopted "an erroneous First Amendment standard ... regarding the authority of public universities to limit the speech of graduate students that I believe to be wholly inappropriate — a standard that would seriously undermine the rights of all college and graduate students attending institutions of higher education."

While the opinion stressed that it only applied to so-called "curricular" speech, it's possible that school officials, at least in some western states, may now believe they can censor school papers, speakers, plays and the like.

Even as applied to curricular speech, the case spells the end of student dissent. A student who disagrees with the views of a professor would have little or no recourse, even if the student could show that the punitive action was motivated because of the student's protected speech.

Harvey Silvergate of the Foundation for Individual Rights in Education called the decision "outrageous" and F.I.R.E. appealed the case to the U.S. Supreme Court, which denied review several weeks ago.

With an apparent conflict in the circuits over the means of *Hazelwood* as applied to college students, the Seventh Circuit case could be ripe for review.

Robert R. DeKoven is a professor of legal writing at California Western School of Law in San Diego.



Steve Baggs Emerald

## Teams are entitled to share religion

Guest commentary

When I read Mark Weintraub's guest commentary on religion and sports ("Sports, religion connection fouls out at University," ODE, April 7), I was appalled at his closed-mindedness regarding prayer services. In "God's Squad?" the author makes it clear the players enjoy the prayer services. Also, the pastors, whether they are sponsored by the school or not, volunteer their time with the basketball team.

It doesn't matter "why the pastors or coaches believe it is appropriate for an athletic program at a public university to sponsor religious programs." What matters is that students get something out of the program. If the players "meditated" to chanting Buddhist monks, I doubt the same controversy would arise; however, because the pastors offer a place to pray to the God of Christianity, it is unconstitutional. I believe that the Establishment Clause of the First Amendment says, "Congress shall make no law respecting an establish-

ment of religion, or prohibiting the free exercise thereof." The First Amendment does not say that freedom of religion is kept by keeping people from practicing elements of their religion in public places, but that Congress shall make no law prohibiting the exercise thereof.

The basketball team, as any sports team, probably shares a lot more than religion. They are probably very good friends — Congress should not keep students from practicing spirituality with their closest friends. If the basketball team wants to ask God for daily guidance in any area of their life, they should be allowed to.

With Weintraub's commentary, a new thought has arisen in my mind: If "school sponsorship of a religious message is impermissible because it sends the ancillary message to members of the audience who are nonadherents that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community," then we must proceed to abolish all clubs, fraternities and

sororities, all of whom share the position of "adherents."

I am part of an audience that deals with being on the "outside" of a sexually driven, alcohol-driven "group" that is very much "student-run." It certainly doesn't seem as though it isn't school sponsored, despite the technicality of having a "dry campus."

Living in this country is about being able to express your differences, not being suppressed because of your differences in order to protect people who are different from you. The message sent, as a result of this sports-religion connection Weintraub speaks of, is that a huge number of students are Christian and they appreciate their right to pray together when they are together. If some of the basketball players do not wish to participate in the prayer services, they are lucky, because it is their right not to.

Everyone is there voluntarily, and those who feel like "outsiders" feel so voluntarily, as well.

Rosalie Bennett is a sophomore journalism major.

## Bush, Blair can lessen Iraqi fiscal load

Guest commentary

President George W. Bush has an opportunity to alleviate some of the international tension his stringent Iraq policy has wound up in recent months.

"Rebuilding of Iraq will require the support and expertise of the international community," Bush said on Tuesday, April 9, after a war summit with British Prime Minister Tony Blair in Northern Ireland. "We are committed to working with international institutions, including the United Nations, which will have a vital role to play in this task."

While Bush and Blair's discussion is

premature — coalition forces continue to engage in heavy urban fighting in Baghdad — their shared policy is a step in the right direction. Bush failed to outline the particular role of the United Nations in post-war Iraq, but his language suggests that he may be open to a greater U.N. role than previously indicated by U.S. officials.

It is clearly in the best interest of the United States to allow the United Nations to play a significant part in post-war Iraq, beyond just humanitarian aid and removal of sanctions. This is a chance for Bush to reestablish an international policy toward a free state of Iraq, thereby attempting to heal political divides with France,

Germany and elsewhere.

More importantly, a broad U.N. role in a free Iraq would serve to clarify the United States' intentions for the Middle East region, offering the world a more benevolent image of a nation it has begun to see as a belligerent superpower.

Besides, someone is has to help foot the bill for reconstruction, which, according to an April 8 article in the Wall Street Journal, some experts say could cost upward of \$20 billion per year.

With Bush's current fiscal policy already drowning in red ink, he can ill afford to turn down any assistance.

Christopher Arnold is a senior studying communications.