

**Bill of Rights**  
**Case # 11- Drug Testing for Extra-Curriculars-**  
**Pottawatomie v. Earls (2002)**

High school student Lindsay Earls wanted to attend choir practice, but she didn't think she should have to take a drug test to do so. Her high school had begun a policy of requiring all students who participated in extra-curricular activities to take random drug tests. No one had to suspect a student of drug use for the test to be required. Everyone in an extra-curricular activity was subject to them.

Earls believed this drug testing program violated the Fourth Amendment. The Fourth Amendment protects against "unreasonable searches." She believed a suspicion-less drug test was an unreasonable search. The school argued that preventing drug use among children was an important responsibility of the state. If a student did not want to take a drug test, he or she could choose not to be involved in any extracurricular activities. Earls's case eventually went to the Supreme Court.

Questions:

1. Which amendment(s) does this incident deal with?
2. Why did Lindsay Earls believe the program was unconstitutional?
3. In her dissent Justice Ginsburg argued that the "program upheld today is not reasonable, it is capricious, even perverse; Petitioners' policy targets for testing a student population least likely to be at risk from illicit drugs and their damaging effects." Do you agree? Why or why not?

*A = Principal/School*

*B = Lindsay*

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### Case # 12- "Bong Hits 4 Jesus" Morse v. Frederick (2007)

Joseph Frederick knew the Olympic Torch relay runner was close and his anticipation grew stronger. Officials at his Juneau, Alaska school had decided that students should be able to see the Olympic relay pass on its way to the games in Salt Lake City, so a mini field trip had been organized. Students were taken outside, across the street from the school. They were surrounded by television cameras and reporters, all hoping to capture the exciting event on film. Few people even noticed Frederick was carrying a banner.

As the Olympic relay approached and cameras rolled, Frederick and some fellow students unfurled the 14-foot banner. It read, "Bong Hits 4 Jesus." (This was a slang reference to smoking marijuana). The banner did not create a disturbance, but Principal Deborah Morse told the students to take it down. When Frederick refused, Morse took the banner away and later suspended Frederick for ten days. She cited the school's policy against materials promoting illegal drugs.

Frederick denied that the banner promoted drug use. He explained, "the words were just nonsense meant to attract television cameras." He believed the First Amendment protected his right to display this banner at a public school event, and brought suit against Principal Morse. The Circuit Court agreed with Frederick and ruled that because he had been punished for the content of his speech rather than any disturbance it caused, the school's actions were unconstitutional. The case was eventually appealed and went to the Supreme Court.

Questions:

1. Which amendment(s) does this incident deal with?
2. Why was Joseph Frederick suspended?
3. In his dissent, Justice Stevens argued that the message was "nonsense" and did not promote drug use. "Most students...do not shed their brains at the schoolhouse gate... The notion that the message on this banner would actually persuade [a student] to change his or her behavior is most implausible." Do you believe the banner could be reasonably understood to promote drug use?

A = Principal  
B = Frederick      (Choose a winner)