



Written by [Dave Bohon](#) on January 3, 2012

Notorious “Candy Cane” Religious Liberty Case Goes Before Supreme Court

A religious liberty case involving candy canes, pens, and pencils with Christian messages — which has been dragging on for eight long years — has finally made its way to the highest court in the land. The conservative legal advocacy group Liberty Institute is asking the U.S. Supreme Court to hold school districts accountable that violate the free speech rights of students who wish to express their religious faith in school.



The case in question began in 2004 when first grader Jonathan Morgan was banned by the principal of Thomas Elementary School in Plano, Texas, from handing out pens, shaped like candy canes, to fellow students at his class “winter party” because the pens had the name “Jesus” imprinted on them. The principal, Lynn Swanson, had met with the youngster’s parents before the party and explained that teachers would confiscate any religious-themed materials or items, and that the school children would also be prohibited from using the word “Christmas” during school activities.

Two years earlier, another student at the school, Michaela Wade, had faced similar repercussions when she tried to hand out treat bags that included pencils with the inscription, “Jesus is the reason for the season.”

The parents of the two grade-schoolers were joined by the parents of Stephanie Versher, a student at the Plano district’s Rasor Elementary School, who in 2004 was prevented by principal Jackie Bombchill from distributing tickets to a Christian activity, along with pencils bearing the inspirational message, “Jesus loves me this I know, for the Bible tells me so.”

The Liberty Institute’s Kelly Shackelford noted that the Plano Independent School District had also once banned an entire classroom from writing “Merry Christmas” on cards to American troops serving in Iraq.

With the help of Liberty Institute a total of four families filed suit against the school district, arguing that the two principals had violated the First Amendment-guaranteed rights of the students in what they referred to as viewpoint discrimination.

In September the 5th U.S. Circuit Court of Appeals ruled that while the schools had, indeed, violated the students’ rights of free speech, principals Swanson and Bombchill were immune from the legal



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consequences over their actions against the students.

The families have appealed the decision to the Supreme Court, insisting that the district must face the music over the unconstitutional actions of its officials. “Every school official knows that engaging in religious viewpoint discrimination against students is unconstitutional,” Shackelford said in a statement announcing the High Court appeal. “Saying that school officials can engage in such religious discrimination without any responsibility is not the law and would send exactly the wrong message to millions of school children and their families.”

Shackelford told the [OneNewsNow.com](#) that “we can’t have government officials nationwide being told that they can engage in religious discrimination against children and that there are no consequences.” He noted that in the eight years that the high-profile case — dubbed by many as the “war on Christmas” — has dragged on in the courts, it has impacted how school districts nationwide deal with students’ rights to religious and other “viewpoint” expression.

He said that some 45 million public school children and their families could be impacted by the High Court’s decision in the case, adding that “it sure would be nice to have this nailed very clearly into the ground to say religious discrimination against children in the schools is not allowed — and anybody who does this will be personally liable.”



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