



PRESS RELEASE

Arizona • California • Michigan • New York • Washington, D.C. • (855) 835-AFLC (2352) • Fax: (801) 760-3901

Contact: Robert J. Muise, Esq.
(734) 635-3756
rmuise@americanfreedomlawcenter.org

For Immediate Release: October 16, 2013

Ninth Circuit to Hear Challenge to California High School’s Ban on American Flag Shirts on “Cinco de Mayo”

San Francisco, California (October 16, 2013)— Tomorrow, a three-judge panel of the U.S. Court of Appeals for the Ninth Circuit will hear oral argument in a case in which three students are challenging the constitutionality of a California school district’s ban on wearing American flag shirts to school on “Cinco de Mayo.” Robert J. Muise, Co-Founder and Senior Counsel of the American Freedom Law Center (AFLC), a national nonprofit Judeo-Christian law firm, will be arguing on behalf of the students and asking the appellate court to reverse a lower federal court’s ruling that upheld the school district’s speech restriction. School officials claimed that they banned the students’ pro-American apparel out of concern that it would offend Mexican students on “their day.”

HEARING INFORMATION

Date: Thursday, October 17, 2013, at 9:00 a.m. PT

Address: The James R. Browning United States Courthouse
Courtroom One, Third Floor
95 Seventh Street
San Francisco, CA 94103

Judges: The Honorable Sidney Runyan Thomas; the Honorable M. Margaret McKeown; and the Honorable Virginia Mary Kendall

Details: The hearing is open to the media and the public. Robert J. Muise is available after the hearing for interviews and may be contacted at (734) 635-3756 or rmuise@aflc.us.

CASE BACKGROUND

Dariano, et al v. Morgan Hill Unified School Dis., et al

On May 5, 2010, a group of students at Live Oak High School in Morgan Hill, California, was celebrating the Mexican holiday known as “Cinco de Mayo.” The school administration approved the Cinco de Mayo celebration, which was co-sponsored by M.E.Ch.A, a school-sanctioned student organization that advocates against “Chicano” assimilation into American culture.

That same day, several students came to school wearing American flag shirts and other patriotic apparel. After being on campus for over three hours, an assistant principal approached the students and ordered them to turn their shirts inside out. The students refused. As a result, the students were taken to the principal’s office, where they were ordered to remove their shirts or they would be dismissed from school. The students again refused, so they were instructed to leave the school.

Shortly after the incident, three of the students and their parents filed a civil rights lawsuit against the school district and two of its administrators, claiming that the restriction violated the First Amendment. During the discovery phase of the lawsuit, school officials testified that they enforced the clothing restriction even though they had no objective evidence that the students were causing any disruption—let alone a material and substantial one—to the operation of the school by wearing the American flag shirts.

Robert J. Muise, who is lead counsel in the case, commented: “It is a sad day in our Nation’s history when, for any reason, government officials ban the American flag on a public high school campus. Here, school administrators violated the First Amendment rights of our clients because of an unsubstantiated fear that they would offend ‘Mexican’ students by wearing their pro-American apparel to school on Cinco de Mayo. Indeed, the Supreme Court has long held that neither teachers nor students surrender their constitutional rights at the schoolhouse gate. Consequently, we are hopeful that the Ninth Circuit will uphold the First Amendment right of students to proudly display our national flag on a public high school campus and reverse the lower court’s troubling decision.”

AFLC Co-Founder and Senior Counsel David Yerushalmi commented: “This case is a classic example of political correctness run amok. These students and their parents should be commended for standing up and fighting for the American flag and the First Amendment.

Similarly, these school administrators should be ashamed for lacking the backbone to do the same.”

The *American Freedom Law Center* is a Judeo-Christian law firm that fights for faith and freedom. It accomplishes its mission through litigation, public policy initiatives, and related activities. It does not charge for its services. The Law Center is supported by contributions from individuals, corporations, and foundations, and is recognized by the IRS as a section 501(c)(3) organization. Visit us at www.americanfreedomlawcenter.org.

###