



Three years later, 'Julius RIP' T-shirt case headed to trial

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NEBRASKA — The two-year legal saga stemming from a Nebraska high school's actions to curb what it claimed was "gang-related" speech will proceed to the courtroom after a judge denied the school district's motion for dismissal Tuesday.

District Judge Laurie Smith-Camp will let a jury decide whether school officials acted based on a reasonable fear of a disruption.

The Millard Public School District had argued the complaint was moot because two of the student plaintiffs — Dan and Cassie Kuhr — had graduated and the other, Nick Kuhr, had transferred out of the district; Smith-Camp ruled otherwise and also denied the district's motion for summary judgment.

"A reasonable jury could find that Defendants failed to demonstrate that school officials had anything more than an undifferentiated and remote apprehension of a disturbance when they suspended Nick Kuhr on August 28," Smith-Camp's order reads.

This development is the latest in what has been a tumultuous legal battle since Nick Kuhr, then a freshman at Millard South High School, wore a "Julius RIP" T-shirt to school Aug. 27, 2008. Then, as now, the school argued it had a right to prohibit Kuhr and others from wearing the shirts paying tribute to Julius Robinson, a friend of the students believed to be have been killed two months earlier in gang-related violence.

On that day, a teacher noticed the freshman wearing the memorial T-shirt, which he had worn before without incident. He was asked to remove the shirt or turn it inside out. After meeting with administrators, mother Jeanne Kuhr decided to take her son home for the remainder of the day.

Dan Kuhr, a senior at a different school within the district, also had worn the message previously without being stopped.

Nick and Cassie Kuhr, along with 30 other students, were suspended the following day for wearing the shirts after school administrators' warnings.

"It was a respectful display of their feelings for a fallen friend," said [Brian Jorde](#), the attorney representing the Kuhrs. "Look at the three plaintiffs. Absolutely no gang affiliation. None of the students who wore the shirt — there's no record of gang affiliation or violence."

On the morning of Aug. 29, 2008, students wearing the shirts and holding signs gathered across the street from the school to protest the ban. School administrators said they feared the demonstration could result in violence, though none occurred.

The ACLU of Nebraska filed a complaint against the Omaha, Neb., school district a little more than a year later.

"The assembly and the disruption ... that was actually caused by the school failing to allow the expression and the free speech," said [Jorde](#), who joined the case in May. "It wasn't a reaction to the shirt; it was a reaction to the stifling of free speech."

The only disturbance to the school was its own censorship, said Amy Miller, legal director of the ACLU of Nebraska, in a press release.

"When a school oversteps their authority to say what is acceptable expression using unclear and arbitrary guidelines, then a school is taking a student's time and energy away from the classroom," Miller said in the release.

The case has been marked by a revolving door of lawyers for the plaintiffs and dueling motions to amend and dismiss.

Smith-Camp's order settles the issue of whether the Kuhrs can qualify for nominal damages. Despite not specifically requesting them, the plaintiffs – should they succeed in proving First Amendment violations – would be entitled to nominal damages "automatically," she ruled.

Though the case has now cleared all hurdles to trial, [Jorde](#) was quick to note that school officials are not the proverbial bad guys, but that this was a poor judgment call on their part.

"The school district acts prudently most of the time in these situations, and we understand their concern for the safety of the students to be first and foremost," he said. "In this instance, based on the information known to them at the time of the Kuhrs' suspensions, there just wasn't enough to meet the legal standard to ban the T-shirt and the expression."

Duncan Young, the attorney representing the district, said the defense remains "quite confident" heading into the trial despite the judge's order.

A pretrial conference in the case is set for Dec. 12, and a jury trial is scheduled for Jan. 24.

By Nicole Hill, SPLC staff writer

For More Information:

- View [pictures of the shirt](#)
- [Read the judge's order](#)
- [Administrators suspend students for wearing memorial T-shirts](#), News Flash 9/18/2008