

Schoolhouse Speech: Taking a Stand in

Tinker v. Des Moines

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Individual Documentary

Process Paper: 500 Words

Process Paper

As a seasoned veteran of the program and one who is well versed in the documentary medium, I knew what topics would work for this project. Seeing the need for a plethora of images and video, I knew a modern topic was the best option for me. I took an American government class last year which taught me about the case, *Tinker v Des Moines*. Tinker stood out to me because it was one of the only cases that preserved students' free speech rights. It was clear that there was no better topic that combined my passion for the law and the First Amendment.

My research started by utilizing sources like oyez.org, which is a top website for Supreme Court cases that provided me with the audio from oral arguments. In search of print sources, I traveled to several locations such as Bridgewater State University's library, Boston Public Library, and even the Newseum in Washington DC. In order to get to the heart of the case, I conducted a multitude of interviews. The most valuable of which was with Mary Beth and John Tinker.

I choose to create an individual documentary as I have for the past three years. My skills at digital editing and narration as well as my experience with iMovie allowed me to create an effective product. Additionally, I feel that documentary is the most powerful medium to convey my message because it grabs the audience's attention engaging them in my topic through audio and multimedia which has always been helpful to me.

Taking a stand is all about challenging the status quo even if it goes against what is popular, what is socially accepted, or what is within the limits of the rules. While the Tinker's original act of defiance was against the Vietnam War, this act evolved into a stand for students'

free speech rights. Despite the risk of serious punishment from school officials, they stood up because they knew their rights and that they had a moral responsibility to do so. Being an opponent of the war was not popular. Wearing the black armbands was not socially accepted. Going to school with these was against the rules. However, despite all these pressures to give in, the Tinkers did not. They kept fighting from the school board all the way to the Supreme Court. They took a stand against something they felt was not right and won in the end. The case focuses on the First Amendment and to what extent it applies in schools. Today, the Tinker standard is part of that canon that is First Amendment Case Law. The First Amendment is essentially the right to take a stand and fight for what one believes in even if the government does not like the message. Because of the Tinker's resolve, taking a stand does not need to end "at the schoolhouse gates" and while they did not reap the immediate benefits of their stand, students since have all benefited as a result.

Annotated Bibliography

Primary Sources

Photographs

Abe Fortas, 1965-1969. Washington D.C. In *Supreme Court Historical Society*. Accessed January 23, 2017. http://www.supremecourthistory.org/timeline_fortas.html.

This is a photograph of Associate Justice Abe Fortas. I used this photograph in my documentary. Abe Fortas was the Supreme Court Justice who wrote the majority opinion in the case making him essential to my documentary.

Associate Justice Abe Fortas, Blocked by the Senate in 1968. In *NBC News*. March 19, 2005. Accessed January 23, 2017. http://www.nbcnews.com/id/7747167/ns/politics-tom_curry/t/filibuster-foes-argue-over-fort-as-precedent/#.WIWmDrHMxmA.

This is a photograph of Associate Justice Abe Fortas. I used this photograph in my documentary. His picture was an important visual to accompany the majority opinion of the case since he was its author.

“Miranda v. Arizona.” National Constitutional Center. C-SPAN. Accessed February 3, 2017. <http://landmarkcases.c-span.org/Case/11/Miranda-v-Arizona>.

This is a photograph of Earl Warren that I used in my documentary. He was the chief justice of the Supreme Court at the time of the Tinker case and the court became much more progressive during his tenure as Chief Justice. It is crucial that he be mentioned in this documentary and that the viewer knows who he is.

“Obscenity Case Files: Tinker v. Des Moines Independent Community School District.” Comic Book Legal Defense Fund. Accessed January 22, 2017. <http://cblfd.org/about-us/case-files/obscenity-case-files/obscenity-case-files-tinker-v-des-moines-independent-community-school-district/>.

From this collection I got many photographs from the case that I used in my documentary. These pictures include a photograph of Chris Eckhardt, an iconic photograph of John and Mary Beth Tinker holding up their armbands, three photographs of Mary Beth Tinker, a photograph of the Supreme Court, a photograph of Dan Johnston, newspaper clipping, and letters sent to the Tinkers while the case was pending. All of these increased my understanding of the conflict and were important images for the viewer to see to understand the situation.

Official portraits of the 1976 U.S. Supreme Court: Justice Byron R. White. January 27, 1976. Prints and Photographs Division, Library of Congress, Washington D.C. In *Library of Congress*. Accessed March 30, 2017. <https://www.loc.gov/resource/cph.3b07883/>.

This is a photograph of Associate Justice Byron White that I used in my documentary. He was important in this case because during the oral arguments, he criticised the Tinker's legal position. I included him in my documentary to show that there was a possibility that the Supreme Court could have sided the other way. I also included his argument in my documentary to address a counterargument.

Thurgood Marshall (1908-1993). Thurgood Marshall College, San Diego. In *Thurgood Marshall College*. Accessed March 3, 2017. <https://marshall.ucsd.edu/about-us/about-our-namesake.html>.

This is an image of Associate Supreme Court Justice Thurgood Marshall. He was a critical component to the Tinker case because he was a major supporter of the Tinker's position. His support was pivotal to the Tinkers winning their case. I featured this image of him in my documentary when I talk about how he was sympathetic to the Tinkers and how that sympathy was clearly shown during oral arguments.

Tinker, Mary Beth. *Mary Beth Tinker, Brother, and Mother.* In *Zinn Education Project*. September 16, 2013. Accessed January 21, 2017. <https://zinnedproject.org/2013/09/tinker-tour/>.

This is a photograph that I used in my documentary. It is an image of Mary Beth Tinker, her mother, and her brother all wearing armbands. It is visually appealing to the reader and displays the armbands that were worn for the protest. Additionally, it shows the Tinker's parents support for the student's stand.

Tinker, Mary Beth. November 14, 2016. Personal Collection of Mary Beth Tinker, Washington D.C.

This is a series of documents from the case that Mary Beth Tinker scanned and sent to me after I interviewed her. I used some of these documents from her personal collection in my documentary and they helped me to better understand my topic. These documents include: a petition that the students sent to the president of the school board, letters of support and scorn from members of the community, the notice of suspension for Mary Beth Tinker, and a newspaper article written by a Marine supporting the Tinkers.

Tinker, Mary Beth, and Mike Hiestand. "Mary Beth Tinker." Tinker Tour USA. January 27, 2015. Accessed January 21, 2017. <https://tinkertourusa.org/about/tinkerbio/>.

From this collection, I got several primary source photographs that I used in my documentary. One of the photographs was of Mary Beth Tinker and her mother at the school board hearing. Another photograph was of Chris Eckhardt and his parents at the school board hearing. This collection also gave me several newspaper articles from when the case was pending. Both of these are not only interesting to the reader but also helps the reader understand the tension and controversy of the case.

"Tinker v. Des Moines Impact." In Tinker Des Moines Project. November 1, 2015. <http://tinkerdesmoinesproject.blogspot.com/2015/11/tinker-v-des-moines-impact.html>.

From this collection, I obtained several photographs that I used in my documentary. These include two articles from the time of the case and a picture of Christopher Eckhardt in a protest against the Vietnam War, showing the stand that he took.

Tinker v Des Moines. In *United States History Question of the Day*. Accessed January 23, 2017. <http://faculty.polytechnic.org/gfeldmeth/1314153q.html>.

From this source, I obtained a photograph of Mary Beth Tinker, John Tinker, and Chris Eckhardt. I used this photograph in my documentary and it helps the viewer see what the kids looked like and helps them understand the case.

United States Supreme Court Justices. In *Thurgood Marshall*. Accessed January 23, 2017. <http://thurgoodmarshall.com/gallery/supreme-court/>.

This is a photograph of the justices of the Supreme Court in 1969. This image helps the viewer understand the makeup of the court during the case. It is crucial that the reader understand the justices behind this decision.

Songs

The Animals. 1964. "The House of the Rising Sun," by Eric Burdon. Recorded with Alan Price, Dave Rowberry, Hilton, Valentine, Chas Chandler, and John Steel, May 18, 1964. The Animals. MGM. MP3.

I used this song in the background of my documentary. It is relevant to the topic because it is from the era when the Tinker case was happening and conveys a similar mood from the time period. The song perfectly relates to the Tinkers because it is all about supporting the underdog and continuing to push forward despite one's defeats. The Tinkers lost the district court ruling and the appeal showing their ability to push forward in spite of defeats.

Buffalo Springfield. 1967. "For What It's Worth," by Stephen Stills. Recorded December 5, 1966 at

Columbia Studios, Hollywood. Buffalo Springfield. Atco. MP3.

This is a song that I used in my documentary. This song is from the era and is relevant to the topic. It is about a protest by young people during the Vietnam War era just like the students' protests in the Tinker case. In both of these cases, a common theme of taking a stand is clear.

Creedence Clearwater Revival. 1969. "Fortunate Son," by John Fogerty, Recorded with Tom Fogerty, Stu Cook, and Doug Clifford, 1969. Willy and the Poor Boys. Fantasy. MP3.

I used this song for the background of my documentary. It is relevant to the topic because it is from the era when the Tinker case was happening. It is also about the Vietnam War which is what the Tinker's protest was all about.

Dylan, Bob. 1964. "The Times They Are a-Changin'," Recorded October 24, 1963. The Times They Are a-Changin'. Columbia. MP3.

I used this song in the end of my documentary for the credits. This is a song from the era of the Tinker protest. Additionally, the song is all about people getting together to create change in a grassroots movement. This is exactly what the Tinker kids were trying to do in their protest against the Vietnam War.

The Rolling Stones. 1969. "Gimme Shelter," by Mick Jagger and Keith Richards. Recorded Bill Wyman, Charlie Watts, Nicky Hopkins, Jimmy Miller, and Merry Clayton, February 23 and November 2, 1969. Let It Bleed. Decca Records/ABKCO. MP3.

I used this song in my documentary. It is relevant to the topic because it is from the era when the Tinker case was happening. It is also about the Vietnam War which is what the Tinker's protests were focused towards as well.

Videos/News Media

Herlihy, Ed. *Anti-War Demonstrators Storm Pentagon*. MP4. Universal Pictures Newsreel, 1967.

This was a news report on protests during the Vietnam War. I used clips from this report as video to depict Vietnam War era protests. This is essential to my project because it was the Vietnam War that sparked the Tinkers to protest in their school. Additionally, it serves as an important piece of context for the time period in which the events of the case occurred.

Kennedy, Robert F. "News Conference on Plans for Peace in Vietnam." Speech, Washington D.C., April 1, 1968.

This is footage from a speech delivered by Senator Robert F. Kennedy during a news conference regarding a path to peace in Vietnam. I used a clip from this speech in my documentary when I talk about Robert F. Kennedy and the proposed extension on the Christmas Truce. He is very important to my documentary because it was his proposal that led the Tinkers to protest in their school.

This Hour Has Seven Days. MP4. CBC, 1965.

This is a clip from an interview with Robert F. Kennedy where he discusses the Vietnam War. I used this footage when I was talking about Kennedy's proposed extension on the Christmas Truce. It was this proposal that sparked the whole armband controversy making Senator Kennedy important in my documentary in order for the viewers to understand the motivations of the children.

Newspaper Articles

Peterson, Ross. "We Mourn: Attention Students!" Roosevelt Newspaper (Des Moines). Unpublished.

This was the article that Ross Peterson wrote for his school newspaper which ended up tipping off the principals to the armband protest. While this article was never published, I was able to get the article from Mary Beth Tinker. This article was helpful because it gave me the perspective of the protest at the time and gave specific details that I could not get from other sources.

Government Publications

Supreme Court of the United States. *Tinker v. Des Moines Independent Community School District-Oral Arguments*. Recorded November 12, 1968. 1968. Accessed January 23, 2017. <https://www.oyez.org/cases/1968/21>.

These audio clips, which I used in my documentary, are from the oral arguments of the case.

This is important because it allows the viewer to hear the arguments of the justices and understand what they were thinking as the case was being decided.

Tinker v. Des Moines Independent Community School District. 258 F. Supp. 971 (1966).

This is the federal district court's ruling in the case. This was the ruling that the Tinkers and Eckhardt eventually appealed to the circuit court. I referenced this case in my documentary. The Tinkers and Eckhardt lost this case and the federal district judge's opinion reflects why they thought that the expression of the students was disruptive and therefore not protected under the First Amendment. Using this resource helped me to better understand the position of the district court judge and helped me to realize a counterargument in my project. The students loss in this decision is also important because it led them to appeal it and take a stand for their rights at a higher level.

Tinker v. Des Moines Independent Community School District. 393 US 503 (1969).

This is the Supreme Court's opinion on the case and the syllabus of the case. The opinion of the court includes the majority opinion written by Justice Fortas, a concurring opinion written by Justice Stewart, a concurring opinion written by Justice White, a dissenting opinion by Justice Black, and a dissenting opinion written by Justice Harlan .This is crucial to understanding the case because it outlined exactly what the opinion of the court is and how it can be applied to future cases. It also outline why the opinion went that way and what the reasons were. I used several quotes from this source in my documentary.

Interviews

Tinker, John. 2016. Online interview by author. November 26.

John Tinker was very helpful in the project. Through interviewing him I was able to get a greater and more detailed understanding of the case. He lived it and understands it better than almost anyone else. I was only able to use a fraction of our 30 minute interview in my documentary due to the time limit.

Tinker, Mary Beth. 2016. Online interview by author. November 27.

Mary Beth Tinker was extremely helpful in this project. Through interviewing her I was able to gain so much insight into the project and I was able to learn a lot about the case. She was more than happy to help and be interviewed for my project. She was able to tell the story of the case in such a vivid manner. She also helped me clear up some ambiguities behind the case. There is no comparison for the interview in terms of any source that added more to my project. Unfortunately, due to the time limit, I was only able to use a small portion of the 40 minute interview in my documentary.

Online Sources

Tinker, John. "Tinker v. Des Moines Frequently Asked Questions (FAQ)." Schema Root. Accessed March 1, 2017. <http://schema-root.org/>.

This is from the website of John Tinker. In this article he answered several questions on *Tinker v. Des Moines* and his life. This was important to understanding the position of the Tinkers in their protest and their motivations.

Secondary Sources

Photographs

Brandon, Alex. June 20, 2016. Associated Press. NBC News. October 3, 2016. Accessed January 22, 2017.

This is a photograph of the Supreme Court Building in Washington D.C.. This image is important because it shows the building where the case was argued and the fact that this case went to the Supreme Court is what made it impactful.

Highsmith, Carol M. *U.S. Supreme Court Building, Washington, D.C.* 1980-2006. Library of Congress Prints and Photographs Division, Library of Congress, Washington D.C. In *Library of Congress*. 2011. Accessed January 22, 2017. <http://www.loc.gov/pictures/resource/highsm.11889/>.

This is a photograph of the Supreme Court Building in Washington D.C.. This image is important because it shows the building where the case was argued and the fact that this case went to the Supreme Court is what made it impactful.

Jantzen, Franz. *U.S. Supreme Court: Courtroom*. In *Britannica*. Accessed January 22, 2017. <https://www.britannica.com/topic/crime-law/images-videos/The-courtroom-of-the-Supreme-Court-of-the-United-States/92680>.

This is a photograph of the courtroom of the Supreme Court building that I used in my documentary. This image is important because it shows the actual room where the case was argued and the fact that this case went to the Supreme Court is what made it Impactful.

Lady Justice. February 27, 2008. Air Force Judge Advocate General School, Maxwell Air Force Base. In *Flickr*. Accessed January 22, 2017. <https://www.flickr.com/photos/jsmoorman/2298671281>.

This image is of Lady Justice that I used in my documentary. The image is aesthetically

pleasing to to viewer. Additionally, it a symbol of justice in American law. The Tinkers were looking for justice in their case making the symbol relevant to the topic.

Lumley, Brian M. *The Supreme Court Building At Night*. In *Fine Art America*. June 13, 2010.

Accessed January 22, 2017.

<http://fineartamerica.com/featured/the-supreme-court-building-at-night-brian-lumley.html>.

This is a photograph of the Supreme Court Building in Washington D.C.. The image is aesthetically pleasing to to viewer and adds to the drama and suspense of the documentary. This image is important because it shows the building where the case was argued and the fact that this case went to the Supreme Court is what made it impactful.

U.S. Supreme Court building in Washington, D.C. Associated Press. In *Kansas Public Radio*.

January 20, 2016. Accessed January 22, 2017.

<http://kansaspublishradio.org/kpr-news/justices-say-kansas-court-wrongly-overturned-death-sentences>.

This is a photograph of the Supreme Court Building in Washington D.C.. This image is important because it shows the building where the case was argued and the fact that this case went to the Supreme Court is what made it impactful.

Scholarly Articles

Brown, Steven M., and Howard J. Bultinck. "From Black Armbands to Bong Hits for Jesus: the 40th Anniversary of Tinker: John Tinker and Kenneth W. Starr Share Their Divergent Views about Limitations on the Freedom of Speech in Schools." *Phi Delta Kappan* 90, no. 10 (2009): 737+. General OneFile (accessed May 5, 2017).

http://libraries.state.ma.us/login?gwurl=http://go.galegroup.com/ps/i.do?p=GPS&sw=w&u=mlln_s_manshs&v=2.1&it=r&id=GALE%7CA202017946&asid=ec624bb07d774db62d9ba20201b87174.

This source was an article featuring an interview with John Tinker from the Tinker case and Kenneth Starr, the lawyer for the school in the Supreme Court case *Morse v. Frederick*. This source was unique as it featured a combined interview between the two men who have radically different views when it comes to student speech. It was very similar to a debate regarding student speech and the case *Morse v. Frederick* in particular. This source provided me with new perspectives on student speech and gave me a better look into the perspective of the school and those who would like to place limits upon it.

Caplan, Aaron H. "The Human Rights of Students in Public Schools: Principles and Trends."

Human Rights 32, no. 4 (2005): 8-25. <http://www.jstor.org/stable/27880498>.

This article brings attention to the recent trends towards teachers and administrators ignoring student rights. It is critical of the trend and tries to call back to court cases that protected student's rights and contrast them with ones that have limited student's rights. This article was important to understanding the trend in student's rights since Tinker and

also helps to demonstrate how Tinker is the high point of student's rights.

DeMitchell, Terri A. "Armbands Against the War!" *Cobblestone*, November-December 2008, 28+. *General OneFile* (accessed November 26, 2016).
http://libraries.state.ma.us/login?gwurl=http://go.galegroup.com/ps/i.do?p=GPS&sw=w&u=mclin_b_massblc&v=2.1&it=r&id=GALE%7CA194330507&asid=555af611a69e1df3eFc91b1397d787d0.

This source clarified the effects of the Tinker case on school policy and gave me greater in depth knowledge of the standard that was set by the Tinker case. What made this particularly helpful was this source clarified the finer points of the case. It was structured as a form of defense of the Tinker case to those who would believe that the Tinker standard gives too much lenience to students.

Flygare, Thomas J. "Is 'Tinker' Dead?" *The Phi Delta Kappan* 68, no. 2 (1986): 165-66.
<http://www.jstor.org/stable/20403293>.

This article, written shortly after the *Bethel v. Fraser* decision was handed out, questions whether the Tinker standard will still apply considering how completely the court ignored Tinker when deciding the *Bethel v. Fraser* case. The article criticizes the court's decision. This article helped me to understand how the Tinker case has been viewed throughout history and how student free speech rights have been limited since Tinker.

Griffin, Matt. "Cyberbullying and the Tinker Standard." *Harvard Civil Rights: Civil Liberties Law Review*, October 17, 2011. Accessed March 30, 2017.
<http://harvardcrcl.org/cyberbullying-and-the-tinker-standard/>.

This was an article that focused on how student speech is being threatened by recent laws against cyberbullying. They argue that these laws are an overextension of the school's power to regulate speech and claim that allowing schools to suppress speech outside of the schoolhouse gates is opening Pandora's box. This article references the Tinker standard numerous times. Reading this article gave me a better understanding of the current state of student speech and how the Tinker standard is applicable today.

Mitchell, Harold W., and John C. Knechtle. "Uniforms in Public Schools and the First Amendment: A Constitutional Analysis." *The Journal of Negro Education* 72, no. 4 (2003): 487-94. doi:10.2307/3211199.

This was an article arguing against the recent trend towards schools instituting a uniform policy for students. The article shows how the school's interest and potential benefit from instituting this policy would be outweighed by the rights of the students. This article cited Tinker and by reading this article I was able to learn about another field that the Tinker standard is beginning to be applied to.

"QUESTIONS...for Mary Beth Tinker." *American School Board Journal* 193, no. 11 (November 2006): 14. Academic Search Premier, EBSCOhost (accessed November 2, 2016).

This was a magazine article featuring an interview with Mary Beth Tinker. This article was helpful in understanding why the students took their stand against the Vietnam war. It offered insightful commentary on the motivations of the students.

Raskin, Jamie B. "Student Speech: The Enduring Greatness of Tinker." *Human Rights*, Summer 2008, 2+. General OneFile (accessed April 28, 2017).

http://libraries.state.ma.us/login?gwurl=http://go.galegroup.com/ps/i.do?p=ITOF&sw=w&u=mlyn_s_manshs&v=2.1&it=r&id=GALE%7CA189598688&asid=3deca5869a7873317f62ab572db472c6.

This was an scholarly article that focused on Tinker, but also talked about the continuing effect on Tinker towards further defining the limits of student speech. It makes an argument on why student need to have more rights in school and how recent decisions have threatened student's ability to express themselves in school. The article also introduced me to the author Jamin Raskin whom I later interviewed.

Shackelford, Kelly. "Mary Beth and John Tinker and Tinker v. Des Moines: Opening the Schoolhouse Gates to First Amendment Freedom." *Journal of Supreme Court History* 39, no. 3 (November 2014): 372-385. Academic Search Premier, EBSCOhost (accessed November 2, 2016).

This was an article that went into intense detail regarding the Tinker case. Even though I used this source later in my research, it still contained several interesting and important details that I had yet to learn.

Walsh, Mark. "Living History; Forty years after they stood up for their right to wear anti-war armbands, Mary Beth and John Tinker advise students that free speech is still worth fighting for." *Education Week*, May 4, 2005, 34. Academic OneFile (accessed May 2, 2017).

http://libraries.state.ma.us/login?gwurl=http://go.galegroup.com/ps/i.do?p=GPS&sw=w&u=mlyn_s_manshs&v=2.1&it=r&id=GALE%7CA215122562&asid=9075f79e241e205b84501cc876889a43.

This is an article that looks into the legacy of the case after forty years. It retells the story and gets great quotes from the people involved including the Tinkers. It offers great perspective on the recent threats to student speech. One thing that made this source uniquely important was that it reported on what the Tinkers have done since the famous case. It furthered my knowledge on the Tinker case and offered a new perspective on its enduring greatness.

Wermiel, Stephen J. "Human Rights Hero: Mary Beth Tinker." *Human Rights*, Summer 2008, 26.

General OneFile (accessed November 26, 2016).

http://libraries.state.ma.us/login?gwurl=http://go.galegroup.com/ps/i.do?p=GPS&sw=w&u=mmln_b_massblc&v=2.1&it=r&id=GALE%7CA189598696&asid=0c87d790fdc81b139e4b38b62a1224d6.

This article was a biographical information on Mary Beth Tinker. The source was mostly focused on her role in the *Tinker v. Des Moines* protest in 1965 and how she has continued her work as a fighter for human rights. This source gave me perspective on Mary Beth Tinker's character and the influences, both internal and external, that led her to participate in the armbands protest.

Wermiel, Stephen J. "Taking Stock of Student Rights: Forty Years after Tinker." *Human Rights*, Summer 2008. *General OneFile* (accessed November 26, 2016).

http://libraries.state.ma.us/login?gwurl=http://go.galegroup.com/ps/i.do?p=GPS&sw=w&u=mmln_b_massblc&v=2.1&it=r&id=GALE%7CA189598687&asid=8fd634cd2afc27c14daf3d02f07c7f54.

This source was a reflective article on the impact of the Tinker decision. It stated, quite eloquently, the outstanding effect on the case on other more recent student's free speech cases and summarized Mary Beth Tinker's more recent work to promote free speech in schools. It gave me perspective on the importance of the case and how many people still regard it as an essential case in the campaign for student rights.

Wheeler, David R. "Do Students Still Have Free Speech in School?" *The Atlantic*, April 7, 2014. Accessed March 23, 2017.

<https://www.theatlantic.com/education/archive/2014/04/do-students-still-have-free-speech-in-school/360266/>.

This is an article about recent trends in student speech rights. It tries to contrast the Tinker case and recent cases regarding student speech online. This helped me better understand my topic as it currently stands. Additionally, the source had quotes from Mary Beth Tinker that not only helped me better understand her position, but I also used one of these quotes at the end of my documentary. I used this quote to demonstrate the modern connection and overall relevance to today that the Tinker case has.

Zirkel, Perry A. "Student Plaintiffs Speak Out." *Phi Delta Kappan* 92, no. 2 (October 2010): 76-77. *Academic Search Premier*, EBSCOhost (accessed November 2, 2016).

This was an article that featured interviews with students from the Tinker case, the Hazelwood case, and the Morse case. In the interview, the writer emphasizes how their case had an effect on the students in their later life and how it shaped them as people. This allowed me to make interesting connections between the Tinker case and other

Supreme Court cases regarding student speech.

Books

Dupre, Anne Proffitt. *Speaking Up: The Unintended Costs of Free Speech in Public Schools*. Cambridge, MA: Harvard University Press, 2010.

This was a book talking about negative consequences that have resulted from the Tinker case and warns about the threat of uncontrolled free speech in schools. This book was particularly important to my research because it provided me with a perspective contrasting with my own and the perspective I argued in my documentary.

Farish, Leah. *Tinker v. Des Moines: Student Protest*. Springfield, NJ: Enslow Publishers, 1997.

This was the first full length book I read when I began studying the topic. It was very helpful for me to use this book to dive into the topic and get a greater understanding of the facts. This book became immensely helpful when I began writing the transcript for my documentary.

Gold, Susan Dudley. *Tinker v. Des Moines: Free Speech for Student*. Supreme Court Milestones. New York City, NY: Marshall Cavendish Benchmark, 2007.

This book was beautifully formatted and eloquently written. While it was one of the last books I read on the case, it was essential to understanding the complexities of the case. The knowledge I gained from this book was very helpful when I began writing the transcript for my documentary. I also used several pictures from an online version of this book in my documentary.

Harrison, Maureen, and Steve Gilbert, eds. *Schoolhouse Decisions of the United States Supreme Court*. San Diego, CA: Excellent Books, 1997.

This was the first resource I looked at when I began researching. I had read the book before, but I decided to reread the section on Tinker to refresh my memory of the case. This book was very helpful in giving the basic facts needed to understand the case. I also watered down much of the complex legal language so that it became easy to understand.

Hudson, David L. *Let the Students Speak!: A History of the Fight for Free Expression in American Schools*. Boston: Beacon Press, 2011.

This book allowed me to see all of the major Supreme Court cases regarding student free speech in detail which was very helpful in fully understanding them. This book expanded my grasp on the broader history of student free expression.

Johnson, John W. "The Overlooked Litigant in *Tinker v. Des Moines*." In *Constitutionalism and American Culture: Writing the New Constitutional History*, edited by Sandra F. Vanburkleo, Kermit L. Hall, and Robert J. Kaczorowski, 240-66. Lawrence, KS: University Press of Kansas, 2002.

This source was one of the first sources I used in my research. It gave very detailed descriptions of the students first day at school with the armbands. It also focuses heavily on Chris Eckhardt and his experience in the case. This in particular was really important because it was really hard getting information about Eckhardt and his involvement in the case. This is partially because his name is not in the name of the case. He also has not spent as much time promoting the case since the ruling was given by the Supreme Court unlike Mary Beth and John Tinker. He also died several years ago meaning I could not contact him. Having a resource that talked about him in detail was really essential to gaining a full understanding of the students and their motivations.

Lüsted, Marcia Amidon and Gerald J. Thain. *Tinker v. Des Moines: the Right to Protest in Schools*. Minneapolis, MN: ABDO Pub., 2013.

This book was particularly helpful for understanding the case in the context of the times. It delved deeply into the nature of the Vietnam War and the protests surrounding it. It allowed me understand how the war changed from 1965 when the case precipitated to 1969 when the case was decided. It also explained several key terms such as "civil disobedience" whose meaning and origins must be understood for one to fully grasp the complexities of the case. The knowledge I gained from this book was very useful when I began writing the transcript for my documentary.

Ross, Catherine J. *Lessons in Censorship: How Schools and Courts Subvert Students First Amendment Rights*. Cambridge, MA: Harvard University Press, 2015.

This was a book warning about the consequences of censorship in school. This book helped see all types of student speech and helped me discover many new cases. It revealed to me the many unnoticed ways that speech is being censored by schools.. Ross focused on much more than just the constitutionality of censorship, but also the broad social effects of censorship on students.

Newspaper Articles

Elmer, MacKenzie. "Attorney in Tinker Free Speech Case Dies." *The Des Moines Register*, October 21, 2016. Accessed February 1, 2017.
<http://www.desmoinesregister.com/story/news/2016/10/21/attorney-tinker-free-speech-case-dies/92520176/>.

This was an article remembering attorney Dan Johnston who died late last year. The article summarized his life achievements with a focus on the Tinker case. This was essential to understanding my topic as it gave me a greater ability to see into the mind of the attorney who argued the case in front of the Supreme Court. This article also provided me with a photo from a recent reunion that had a picture of John and Mary Beth Tinker that I used in my documentary.

Interviews

Johnson, John W. Telephone interview by author. April 28, 2017.

This was an interview that I conducted with a constitutional historian. Johnson has written numerous books and scholarly articles on the Tinker case, several of which I used in my research. His perspective on the Tinker case was very unique as it was in the context of constitutional law. He gave great insights into the general trend of civil liberties through the court and how student speech has been slowly chipped away over time. His view was also the most impartial of all the experts I have interviewed as he sees it more as a matter of what happened in history than as a pressing political issue. While I did not include any portion of this interview in my documentary, this interview was still crucial to understanding the Tinker case and getting a new and impartial view on the case and its legacy.

Raskin, Jamie B. Telephone interview by author. May 9, 2017.

This was an interview that I did over the phone that I later included in my documentary. Mr. Raskin is a Congressman representing a district in Maryland. Before he served in Congress, he was a constitutional law professor at American University where he wrote several books and articles on the Tinker case. I contacted him through his congressional offices. While the interview had to be short due to the Congressman's busy schedule, it was incredibly helpful to understanding the case and getting a fresh perspective on its importance.

Pyle, Jeffrey J. 2017. In person interview by author. Boston. April 21.

This is an interview I did with Jeffrey Pyle. I used clips from this interview in my documentary. Jeffrey Pyle was a student who wore a t-shirt that school administrators deemed “vulgar”. He wore other shirts to test the limits of his school’s dress code policy. He appealed the case to the state superior court. His case gave Massachusetts students some of the broadest free speech rights in the country. He is now a first amendment constitutional lawyer. I interviewed him about student free speech rights, case law, and his case.

Wunsch, Sarah. 2017. In person interview by author. Boston. April 21.

This is an interview I did with Sarah Wunsch. Sarah Wunsch has been an ACLU staff attorney since 1990. She has defended numerous cases on student free speech. One that I focused on in particular is a case of two girls in Holliston who protested at a school event and were suspended. She got the school to undo the detention.

Online Sources

Chicago-Kent College of Law at Illinois Tech. "Bethel School District No. 403 v. Fraser." Oyez. <https://www.oyez.org/cases/1985/84-1667> (accessed June 9, 2017).

This is an article on Oyez relating to the case *Bethel v. Fraser*. This case is about a student who delivered a lewd speech containing several double entendres during a high school assembly. He was punished and when the case went to the Supreme Court, the court found in a 7-2 holding that the school had a right to limit speech that could be considered offensive or profane. I cited this case in my documentary to show the recent trend towards limiting student free speech by the court.

Chicago-Kent College of Law at Illinois Tech. "Hazelwood School District v. Kuhlmeier." Oyez. <https://www.oyez.org/cases/1987/86-836> (accessed June 9, 2017).

This is an article on Oyez relating to the case *Hazelwood v. Kuhlmeier*. This case regarded the censorship of several articles in a student newspaper. This case was another important case in the history of student free speech and the Tinker standard was used in the decision. Ultimately, the school won this case by a holding of 5-3 and the case ended up being one of the many cases limiting student free speech. I cited this case in my documentary to display the recent trend towards limiting student free speech by the court.

Chicago-Kent College of Law at Illinois Tech. "Morse v. Frederick." Oyez. <https://www.oyez.org/cases/2006/06-278> (accessed June 9, 2017).

This is an article on Oyez describing the case *Morse v. Frederick*. This case focuses on the school right to punish a student whose speech promoted illegal drug use. In particular, he held up a sign saying "Bong Hits 4 Jesus". The court sided with the school in a ruling of 5-4. This case helps display the broader trend of the court towards limiting student free speech. It also shows how the court is becoming steadily more divided on this issue. This case also is important because it is sometimes cited to justify schools regulating what students post on the internet as this case allowed the school to regulate student speech outside of school hours during a school-sponsored event. I referenced this case in my documentary to display the recent trend of the court of limiting student speech.

Tinker, Mary Beth, and Mike Hiestand. "Mary Beth Tinker." Tinker Tour USA. January 27, 2015. Accessed January 21, 2017. <https://tinkertourusa.org/about/tinkerbio/>.

From this website I got several photographs of the Tinkers that I used in my documentary. These photographs were taken more recently making them secondary sources. It also provided me with biographical information about Mary Beth Tinker and this was particularly helpful because it was written by her and an editor from her website meaning the information comes from a viable source.

"Tinker v. Des Moines Independent Community School District." Oyez. Accessed February 06, 2017. <https://www.oyez.org/cases/1968/21>.

Oyez was one of the core sources I used in beginning research for my project. Oyez gave me the Basic facts of the case and helped me understand the constitutional dilemma that was presented by this case. The website gave me a great summary and explanation of the Supreme Court's holding in the case. It also connected me with many of the names of the lawyers and litigants of the case. Perhaps most importantly, it connected me with many primary sources that are cited elsewhere in my bibliography.

Pamphlet

"Students: Know Your Rights." American Civil Liberties Union Massachusetts. Accessed March 30, 2017. <https://aclum.org/wp-content/uploads/2011/06/resources-kyr-students.pdf>.

This article explained students rights in Massachusetts. It explained in depth the Student Free Expression Act of 1972 and the rights it entailed. I used this information in my documentary to show how the Tinker case influenced different states to legislate school speech to be even more extensive than it was under the Tinker standard. Since Massachusetts pioneered these set of laws, this source was incredibly important to my documentary.

"Your Right to Free Expression." American Civil Liberties Union. Accessed March 30, 2017. <https://www.aclu.org/other/your-right-free-expression>.

This article from the ACLU explain what free speech in school is and what are the limits upon it. It also explains the laws throughout several states regarding free speech in schools. This was important because I used these state regulations to show how the Tinker case affected education on a broader scale and I reference the states that passed student speech laws since the Tinker case.

Reference

Phelps, Shirelle, and Jeffrey Lehman, eds. "Tinker v. Des Moines Independent Community School District." *West's Encyclopedia of American Law*. 2nd ed. Vol. 10. Detroit, MI: Gale, 2005. 38-40. Accessed November 26, 2016. http://go.galegroup.com/ps/i.do?p=GPS&sw=w&u=mclin_b_massblc&v=2.1&it=r&id=GALE%7CCX3437704391&ugroup=outside&authCount=1#.

This was one of the first sources that I used in my research for information about the case. It was very helpful and gave lots of detailed information about the students. Additionally, it provided me with perspective on their roles in the protest.

Letters

Wunsch, Sarah. "Re: Nick Barbieri." E-mail to Scott Holcomb and Lee Anne Todd. February 10, 2014.

This is an email which the ACLU attorney whom I interviewed sent to a school administrators of North Attleboro High School. The case emerged when a student retweeted a tweet of the school with the expletive phrase "F*** Off". He was given two detention and forced to delete the tweet and other tweets that were critical of the school administration. This email is the response of the ACLU to this punishment. It relates to Tinker because it is a modern application of student free speech and connects to the take away of the project.

Government Publications

Dariano v. Morgan Hill Unified School District (9th Circuit Court of Appeals January 20, 2015) (SCOTUSblog, Dist. file).

This is the amicus brief of Mary Beth and John Tinker in the case Dariano v. Morgan Hill where students were punished for wearing American flags on Cinco de Mayo. The Tinker's amicus brief helps to demonstrate how they continue to fight for students rights to this day. It also serves as another example of student free speech cases since the Tinker case.

Morse v. Frederick. 551 U.S. 393 (2007).

This is the opinion of the court for the case *Morse v. Frederick*. While I did not directly cite this in my documentary, reading this was helpful towards understanding how far the court had gotten from the Tinker standard over the years. This case was also important towards understanding the counterargument. Justice Thomas wrote a concurring opinion in this case where he says that the court should simply get rid of the Tinker standard and writes about why students should not have free speech rights in school.

Supreme Court of the United States. *Hazelwood School District v. Kuhlmeier-Oral Arguments*. Recorded October 13, 1987. Accessed June 9, 2017.

This is the audio from the oral arguments of *Morse v. Frederick*. This was helpful in understanding the court's application of the Tinker standard in other case. It also helped me to better understand the facts of the case for Hazelwood.

Supreme Court of the United States. *Morse v. Frederick-Oral Arguments*. Recorded March 19, 2007. Accessed June 9, 2017.

This is the audio from the oral arguments of *Morse v. Frederick*. This was helpful in understanding the court's most recent application of the Tinker standard. Listening to the oral arguments helps to show how divided the court was in their reasoning for this case. No justice was sure whether the issue at hand was the size of the banner, the message displayed on the banner, or the time the banner was displayed. This made the results of the case rather messy and the court gave several concurring and dissenting opinions.