

Symbolism and Freedom of Religion

State Bar of New Mexico Student Essay Contest

By Kathryn Martinez

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I. Summary of Background Information

Torredo Charter High School is located in South-Central New Mexico. The school is situated in a poverty stricken district, ridden with crime and gang violence. In an effort to ensure student safety, Torredo has created a dress and grooming policy for students. Uniforms are required and the policy regulates the length of male student's hair. John Bajellos, an American Indian, entered Torredo as a freshman. In his junior year of high school, John began to wear his hair long, unlike other American Indian male students at the school. School officials deemed John to be in violation of the school's dress and grooming policy. The policy reads, "Male students should wear their hair in a neat and clean manner with hair no lower than the middle of their foreheads in the front, no lower than the shirt collar in the back, and no longer than the middle of their ears on the sides." The grooming policy, however, provides for an exemption for *any* religious or cultural belief that requires certain grooming habits at odds with school policy. To be eligible for the exception, the student must demonstrate that he or she was a devotee of a religion or member of a culture that required particular grooming standards. Initially, John Bajellos provided no such demonstration, but when threatened with suspension, he asserted that he was following the expectations of his tribe's cultural and religious beliefs. Although not an actual member of a federally recognized Indian tribe, John's ancestry is Lipan Apache, a sub-tribe of the Mescalero Apache; he will in the near future meet the

requirements of tribal membership. However at the time, John was not unable to provide written evidence of his lineage nor could he demonstrate that either Mescalero or Lipan Apache required male members to wear long hair. Facing suspension, John appealed to the school board, arguing that he only recently began to study his heritage. John provided the statements of two elder members of the Lipan. The school board found that John had only asserted a personal preference and affirmed the principal's decision. John Bajellos has filed suit in Federal Court.

II. Questions

1. Is Torredo Charter High School's dress and grooming policy an appropriate measure to further the educational process?

If school officials can prove a rational basis for a hair regulation, whether it promotes the furtherance of usual educational goals, health, or other legitimate purposes, they may restrict a student's personal freedoms consistent with both the due process and equal protection clauses. Dwen v. Barry, 483 F. 2d 1126, 1130 (2d Cir. 1973). If a student has a valid reason to convey individuality or certain beliefs it need not be in a manner that upsets school guidelines. Torredo Charter High School's proximity to a high crime area and its poor student population creates a logical tie between the environment and a dress code designed to instill discipline.

2. Is there a rational basis for regulating the length of hair for males?

Yes; "Personal freedoms are rarely absolute, especially in a school environment, students in a public school are expected to submit to reasonable regulations...". Bishop v. Colaw, 450 F.2d 1069, 1075 (8th Cir. 1971). Uniformity in dress, hair and appearance, especially in males, combats gang violence as well as its precursor, gang affiliation. Gangs distinguish themselves by particular dress and/or colors; uniformity is the antithesis of this disruptive sub-culture. While one might contest that hair length

regulation inhibits self-expression, it does not merit exclusion from adhering to school policy. Hair length is not the sole basis of individuality. Whether having long hair strengthens the feeling of closeness to one's heritage or not is irrelevant. As stated in the case summary, many of John Bajellos' Native American peers did not wear their hair long, and had no trouble acting in accordance with school rules. Because Mr. Bajellos did not provide documented proof of his cultural association, he should be expected to comply with the grooming standards of Torredo Charter High School.

3. Will the absence of the policy cause harm to school functions?

"Personal freedoms in a school environment 'must yield when they intrude upon the freedom of others.' " Bishop v. Colaw, 450 F.2d 1069, 1075 (8th Cir. 1971). If granted limitless freedom students would likely abuse the privilege. An unrestricted dress code is far more inviting for students to wear gang related, or otherwise vulgar and inappropriate apparel. The lack of grooming and dress guidelines would leave the school susceptible to violence and impede on other student's safety. Provided the policy is appropriate for furthering the educational process and the basis for regulating hair length of males is rational, a reasonable deduction can be made from the circumstances in which Torredo Charter High School must function. The affirmative answers to these issues clearly demonstrate that the absence of the dress policy would likely harm school functions.

III. Conclusion

Answering the three issues presented; the legitimacy, need, and appropriateness of Torredo's dress and grooming policy is established. But, to truly answer the question before the court we must look at the wording of the policy, specifically the exceptions to

the policy; “...any religious or cultural belief that required certain grooming habits at odds with school policy.” It is clear that no evidence was offered to validate that either the Mescalero or Lipan Apache *require* their male members to wear long hair. Mr. Bajellos' choice to grow out his hair cannot be shown to be a cultural belief held by a significant number of members of the Lipan or Mescalero people. His desire to wear his hair long is thereby in violation of the dress code is a personal preference. Mr. Bajellos' sudden need for a “closer connection” to his tribe came as a diversion to avoid suspension once confronted.

There can be but one decision; no culturally held belief has been demonstrated by John Bajellos, and he should be ordered to cut his hair in conformity with Torredo's grooming policy or face suspension.



State Bar of New Mexico
2011 Student Essay Contest Entry Form

(Please type or print.)

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I hereby certify that the essay I submit is my original work.

Student Signature

A handwritten signature in black ink, appearing to read "K. Martinez", written over a faint, large outline of a hand.

E-mail essay along with the entry form to dseago@nmbar.org.
For further assistance or questions, call Dorma Seago, (505) 797-6030.