

Supreme Court Sidesteps Controversial Free Speech Case

The Supreme Court has declined to take up a free speech case involving a student wearing a shirt reading, "There Are Only Two Genders."

Justices Samuel Alito and Clarence Thomas dissented, saying a lower court's ruling violated the First Amendment.

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"This case presents an issue of great importance for our nation's youth: whether public schools may suppress student speech either because it expresses a viewpoint that the school disfavors or because of vague concerns about the likely effect of the speech on the school atmosphere or on students who find the speech offensive," Alito wrote in his dissent. "In this case, a middle school permitted and indeed encouraged student expression endorsing the view that there are many genders. But when L. M., a seventh grader, wore a t-shirt that said 'There Are Only Two Genders,' he was barred from attending class. And when he protested this censorship by blocking out the words 'Only Two' and substituting 'CENSORED,' the school prohibited that shirt as well."

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Alito went on to criticize the First Circuit's ruling, saying it misjudged in finding that "the general prohibition against viewpoint-based censorship does not apply to public schools."

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Thomas wrote in his dissent that the First Circuit's ruling "distorted this Court's First Amendment case law in significant ways that warrant this court's review."

Alliance Defending Freedom Senior Counsel and Vice President of U.S. Litigation David Cortman, representing the student, said in a statement that schools cannot "suppress students' views they disagree with."

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"Here, the school actively promotes its view about gender through posters and 'Pride' events, and it encourages students to wear clothing with messages on the same topic—so long as that clothing expresses the school's preferred views on the subject," Cortman said. "Our legal system is built on the truth that the government cannot silence any speaker just because it disapproves of what they say. Alliance Defending Freedom will continue to defend the rights of students to speak freely on important issues of the day without government censorship."

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