

2015

90th Henry M. Campbell Moot Court Competition Final Round

University of Michigan Law School

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MICHIGAN LAW
UNIVERSITY OF MICHIGAN

90th

HENRY M. CAMPBELL MOQT COURT COMPETITION

FINAL ROUND

TUESDAY, APRIL 14

4:00 P.M. Hutchins Hall 100

IN THE
Supreme Court of the United States

HUTCHINS SCHOOL DISTRICT,
Petitioner,

v.

TIMOTHY KERR,
Respondent.

On Writ of Certiorari
to the United States Court of Appeals
for the Twelfth Circuit

Benjamin Reese
on behalf of Petitioner

Hannah Swanson
on behalf of Respondent

April 14, 2015
Henry M. Campbell Moot Court Competition
University of Michigan Law School



MICHIGAN LAW
**HENRY M. CAMPBELL
MOOT COURT COMPETITION**
UNIVERSITY OF MICHIGAN

THE 2014–2015 CAMPBELL MOOT COURT BOARD

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Welcomes you to

**THE 90TH ANNUAL
HENRY M. CAMPBELL
MOOT COURT COMPETITION**

Sponsored by

Dickinson Wright PLLC

QUESTION PRESENTED

The United States Supreme Court has granted certiorari to the Petitioner for the following question:

Whether the First Amendment prohibits a public school from disciplining a student for off-campus speech after the student publicly shares a social media message that references illegal substances and that other students share on social media.

STATEMENT OF THE FACTS

During a weekend rally to demonstrate against the state of Marquest's criminalization of marijuana, a high school student spotted his teacher among the protesters. The teacher chanted along with the crowd, holding aloft a sign that read "0 deaths, millions arrested; Sad but true, this isn't contested!" The student snapped a photo of the scene. The following evening, from the comfort of his own home, the student posted the photo to Twitter along with the caption "Be wise, legalize! Yeah, Mr. Ricks! #hutchinsHIGH."

The next day, the student's high school principal received a panicked call from another student's father who had taken offense to the Tweet's celebration of drug use. The principal also discovered that a local news station had picked up the story and that others had begun to share the Tweet on their own accounts. When the student refused to delete his Tweet, the principal suspended him, erased his name from the school's honor roll, and removed him from his position as an editor of the school newspaper.

The student sued the school district, alleging a violation of his First Amendment right to free speech. After he won in the Twelfth Circuit, the United State Supreme Court granted certiorari.

JUDGING PANEL

The Honorable Raymond M. Kethledge

United States Court of Appeals for the Sixth Circuit

Raymond M. Kethledge is a circuit judge on the United States Court of Appeals for the Sixth Circuit, to which he was appointed on July 8, 2008. He received his BA in history from the University of Michigan in 1989 and his JD from the University of Michigan Law School in 1993. He clerked for Justice Anthony Kennedy of the United States Supreme Court and Judge Ralph B. Guy Jr. of the United States Court of Appeals for the Sixth Circuit. He also worked in the United States Senate and later, with two partners, founded a boutique litigation firm, now known as Bush Seyferth & Paige PLLC, in Troy, Michigan. His practice there included a broad mix of trial-court, appellate, and class-action litigation.

JUDGING PANEL

The Honorable Cheryl Ann Krause

United States Court of Appeals for the Third Circuit

Cheryl Ann Krause was appointed to the United States Court of Appeals for the Third Circuit in July of 2014. She received her undergraduate degree from the University of Pennsylvania, summa cum laude, and graduated from Stanford Law School with distinction. She then served as a law clerk to the Honorable Alex Kozinski of the United States Court of Appeals for the Ninth Circuit, followed by a clerkship for the Honorable Anthony M. Kennedy of the United States Supreme Court.

Before entering private practice, Judge Krause served for five years as an Assistant United States Attorney in the Criminal Division of the United States Attorney's Office for the Southern District of New York and was a lecturer at Stanford and Columbia Law Schools. As a litigator at a large law firm in Philadelphia, she specialized in white collar criminal defense and government investigations, was a frequent author and speaker on topics pertaining to constitutional and criminal law, and lectured at the University of Pennsylvania Law School, where she founded an appellate litigation externship.

Judge Krause has served many professional, civic, and charitable organizations in various capacities. In 2011, she founded the Philadelphia Project, a partnership between practicing lawyers and a non-profit organization in Philadelphia, to improve the quality of education for children with disabilities.

JUDGING PANEL

The Honorable John B. Owens

United States Court of Appeals for the Ninth Circuit

The Honorable John B. Owens serves on the Court of Appeals for the Ninth Circuit. Prior to becoming a federal judge in 2014, he was a partner at Munger, Tolles & Olson LLP (where he focused on white collar investigations and appellate matters), and a federal prosecutor for more than 11 years in Washington D.C., Los Angeles, and San Diego. He served as the Chief of the Criminal Division in the United States Attorney's Office for the Southern District of California, and received two Director's Awards for his work there. The television show *American Greed* featured two of his prosecutions, and he obtained the longest sentence for a white collar defendant in the history of the Southern District of California in *United States v. Cao*.

Judge Owens graduated first in his class from Stanford Law School in 1996, where he was an Executive Editor on the *Stanford Law Review*. After graduation, he served as a law clerk for the Honorable J. Clifford Wallace of the Ninth Circuit Court of Appeals and for the Honorable Ruth Bader Ginsburg of the Supreme Court of the United States. His written work has appeared in the *California Law Review*, the *UCLA Law Review*, the *Northwestern Law Review*, and other law reviews. Judge Owens and his family live in San Diego.

ORIGIN OF THE HENRY M. CAMPBELL MOOT COURT COMPETITION

Henry Munroe Campbell was a distinguished lawyer who served as legal counsel to the University of Michigan's Board of Regents for several years.

Mr. Campbell was born in 1854, the son of famed Michigan Supreme Court Justice James V. Campbell. He graduated from the University of Michigan in 1876 and later from the University of Michigan Law School. In 1878, he established a law partnership in Detroit with Henry Russell. Over the years, the firm prospered and continues today as the Detroit-based firm of Dickinson Wright PLLC.

Mr. Campbell became an attorney of considerable eminence in Michigan and was widely regarded as a constitutional scholar. He helped draft the Michigan Constitution in 1908 and served as chief counsel to the delegates who petitioned the Michigan Supreme Court to secure early submission of the document to the electorate.

Mr. Campbell maintained a keen interest in the affairs and growth of the University of Michigan. In *Board of Regents of the University of Michigan v. Auditor General*, 132 N.W. 1037 (Mich. 1911), he successfully argued for the constitutional autonomy of the University and its governing body. Mr. Campbell was a well-liked and inspiring teacher. One of the young lawyers he trained recalled years later, "He created and fostered a sense of loyalty, of cooperation and uncompromising integrity that must endure. To him the law was a science, its profession a service."

Following Mr. Campbell's death in 1926, his law partners met with then-University of Michigan Law School Dean Henry M. Bates to discuss a fitting memorial. They decided to establish a case-club competition to foster training for law students in appellate advocacy in his honor. The first Henry M. Campbell competition was held in the 1927–28 academic year.

A trust fund to finance the competition was established in 1927 and has been periodically augmented with gifts from Dickinson Wright PLLC. Each year, prizes are paid from the income of the trust fund to outstanding competitors in the Henry M. Campbell Moot Court Competition. This year, cash prizes will be paid to the top five outstanding competitors.

AWARDS

Please join us in recognizing all 86 exceptional competitors who participated in this year's Henry M. Campbell Moot Court Competition, and especially the following award winners:

BRIEF AWARD RECIPIENTS

Preliminary Round

Aaron Schaer & Alex Wharton
Best Petitioner Brief

Judy Bao & Katherine Warren
Best Respondent Brief

Quarterfinal Round

Hannah Swanson & Benjamin Reese
Best Petitioner Briefs (Tie)

Wyatt Fore
Best Respondent Brief

ORALIST AWARD RECIPIENTS

Preliminary Round

Wyatt Fore
Best Oralist

Quarterfinal Round

Aaron Schaer
Best Oralist

RUNNERS-UP

Aaron Schaer
Third Place

Megan DeMarco
Fourth Place

William Martin
Fifth Place

SPECIAL THANKS

The Campbell Board would like to extend a special thank you to the three esteemed federal judges who are serving on the panel for the Final Round of this competition. We would also like to thank all of the administrators, practitioners, and professors who served as judges of briefs and oral arguments for the previous rounds. Without all of these parties' collective support, this year's competition would not have been possible.

PRELIMINARY ROUND JUDGES

Chris Allen	Mary Gniadek	Darryl Miller
Kimberly Ang	Stephanie Goldfarb	Barbara Miller
Laura Aronsson	Donnelly Hadden	Kate Mitchell
Kindra Baer	David Handelsman	Marguerite Moeller
Michael Barnhart	Jeff Haynes	Peter Mooney
Mark Bendure	Tim Hefferon	James Moore
David Berry	Ryan Heilman	Jessica Morton
Erin Birkam	Lynn Helland	Matthew Muma
Howie Borin	Bill Hodgman	Moheeb Murray
Matthew Boucher	Phyllis Hurks-Hill	Harold Newland
Thomas Bourque	Robert Jackson	Rick Pacynski
Diane Bower	Barry Jensen	David Palmiere
Bruce Brakel	William Joselyn	George Parks
Andy Broder	Rachelle Ketchum	Donald Parshall
Jennifer Bronson	Teresa Killeen	David Paruch
Erik Carson	Rebecca Klipfel	Jonathan Paul
Karen Chadwick	John Knappmann	Antoinette Porter
Roger Chard	Chris Kopp	David Porter
Erin Chesney	Mark Kowalsky	Stephen Postema
Trent Collier	Michael Kratchman	Robbin Pott
John Cothorn	Eric Lee	Diana Pratt
Lee Crain	Daniel Lemisch	John Quinn
Erika Davis	Daniel Lewin	James Roach
Barbara Debrodt	Perry Lewis	Steve Roach
Johanna Dennehy	Tom Ludden	Clyde Robinson
Brian Doughty	Stephanie Maloney	Katharine Roller
Sean Dutton	Katie Martin-Browne	Michael Ryan
Alfred Eppens	Becket Marum	Andrew Samuels
Peter Falkenstein	Bradford Maynes	Douglas Sanders
Daniel Ferris	Jack Mazzara	Robert Sandoval
Caroline Flynn	Andrew McGuinness	Bernadette Sargeant
Jonathan Frank	John Meixner	Mark Sassak
Ken Frantz	Ed Miller	Larry Saylor

Jim Saywell
Bill Scharf
Gary Schenk
Douglas Schleicher
Matthew Schneider
Jon Sebaly
Goran Selanec
Stephen Selbst
Erin Shaw
Frank Shaw

John Shea
Jake Sherkow
Ming Shui
Jon Siegler
Anthony Simon
Abraham Sisson
JoAnn Slater
Michael Slaughter
Regina Slowey
Kelly Smercina

Michael St. John
Dan Swanson
Imran Syed
Matthew Talley
Jesse Taylor
Peter Theut
William Thomas
Erica Wilczynski
Emily Wolfe

QUARTERFINAL ROUND JUDGES

Kate Andrias
James Barta
David Baum
Edward Becker
Libby Benton
Jeremy Bloom
Michael Bloom
Howard Bromberg
Kincaid Brown
Sherman Clark
Margaret Connors
Daniel Crane
Rebecca Eisenberg
Paul Falon
Richard Friedman

Barbara Garavaglia
Marshall Goldberg
Margaret Hannon
Neil Kagan
Eric Lee
Jessica Litman
Emily Marr
Darren Nealy
Mark Osbeck
Matt Owen
Timothy Pinto
Caitlin Plummer
Joseph Pollak
James Prescott
Eve Brensike Primus

Adam Pritchard
Seth Quidachay-Swan
Amanda Runyon
Amy Sankaran
Michael Steinberg
Andrew Stumpff
Imran Syed
Harvey Temkin
Dennis Terez
Kimberly Thomas
Nancy Vettorello
Beth Wilensky
Sarah Zearfoss

SEMIFINAL ROUND JUDGES

Nicholas Bagley
Don Herzog

Julian Mortenson
Leonard Niehoff

Richard Primus
Christina Whitman

FINAL ROUND JUDGES

Hon. Raymond M. Kethledge
Hon. Cheryl Ann Krause
Hon. John B. Owens

Additionally, we would like to thank the first-year law students who volunteered as Marshals. We cannot thank them enough for the long hours they dedicated to making the competition a success.

Nadji Allan, Jessica Altman, Chris Bruno, Maddy Buck, Hazel Caldwell, Cory Carone, Philip Castagnozzi Bush, David Cho, Jeff Christensen, Meredith Collier, Sam DeBaltzo, Brian Dressel, Mariel Eben, Emma Ellman-Golan, Stevin George, Dylan Glenn, Amanda Grill, Nathan Grossman, Joanna Howard, Katie Joh, Elizabeth Jones, Megan Kenney, Jared Konczal, Dana Leib, Matt Lind, Cole Lussier, Thomas Martecchini, Corina McIntyre, Serena Monjeau, Taylor Muller, Kimberly Pageau, Trisha Parikh, Lexi Peacock, Sarah Precup, Sarah Rieger, Matthew Stiles, Peri Tenenbaum, Andrew Tung, Chris VanDeusen, Kaitlyn Vitale, Dana Ziegler.

The Campbell Board especially wishes to thank **Dickinson Wright PLLC** for its continued support of the Henry M. Campbell Moot Court Competition.

Finally, we would like to extend our deepest gratitude to Professors Samuel Bagenstos, Nicholas Bagley, Edward Cooper, Richard Friedman, Samuel Gross, Don Herzog, Julian Davis Mortenson, Leonard Niehoff, Eve Brensike Primus, Richard Primus, Mathias Reimann, Margo Schlanger, Gil Seinfeld, Michael Steinberg, and Christina Whitman for their invaluable assistance with this year's problem; to our advisors, Professor Joan Larsen and Director Darren Nealy for their continual support throughout the year; and to Trudy Feldkamp, Jenny Rickard, Karen Edman, Tish Holbrook, Tara Perry and Shawn DeLoach for their tireless efforts over the course of the competition.