

The Burger Court Opinion Writing Database

*Olff v. East Side Union High School
District*
404 U.S. 1042 (1972)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



1st DRAFT

SUPREME COURT OF THE UNITED STATES

10: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

Mr. Justice Douglas, J.

ROBERT OLFF, A MINOR, BY AND THROUGH:
HIS GUARDIAN AD LITEM, MRS. SONNY OLFF
v. EAST SIDE UNION HIGH SCHOOL
DISTRICT

Re-circulated:

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 71-498. Decided January —, 1972

MR. JUSTICE DOUGLAS, dissenting.

It seems incredulous that under our federalism a State can deny a student education in its public school system unless his hair style comports with the standards of the school board.

Some institutions in Asia require their enrollees to shave their heads. Would we sustain that regulation if imposed by a public school?

Would we sustain a public school regulation requiring male students to have crew cuts?

The present regulation—to some at least—seems as extreme as the examples given. It provides:

“Hair shall be trim and clean. A boy’s hair shall not fall below the eyes in front and shall not cover the ears, and it shall not extend below the collar in back.”

Robert Olff, a 15-year-old boy speaking through his mother, has a full panoply of constitutional rights, though he is a minor. We said in *Tinker v. Des Moines Community School District*, 393 U. S. 503, 511:

“Students in school as well as out of school are ‘persons’ under our Constitution. They are possessed of fundamental rights which the State must respect, just as they themselves must respect their obligations to the State.”

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2nd DRAFT

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p. 5 plus minor
changes

3rd DRAFT

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Mr. Chief Justice
Mr. Justice Warren
Mr. Justice Brandeis
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Marshall
Mr. Justice Stewart
Mr. Justice Tamm
Mr. Justice Tompkins
Mr. Justice Traynor
Mr. Justice White
Mr. Justice Blackmun
Mr. Justice Brennan
Mr. Justice Burger
Mr. Justice Goldwater
Mr. Justice Harlan
Mr. Justice Marshall
Mr. Justice Stewart
Mr. Justice Tamm
Mr. Justice Tompkins
Mr. Justice Traynor
Mr. Justice White

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

January 18, 1972

Re: No. 71-498 - Robert Olff, etc. v. East Side
Union Union High School District

Dear Bill:

Please join me in your dissent.

Sincerely,


T.M.

Mr. Justice Douglas

cc: The Conference

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