

# CLIENT NEWS BRIEF

## United States Supreme Court Declines to Review American Flag T-Shirt and Student Free Speech Case

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The United States Supreme Court recently issued an order declining to review the Ninth Circuit Court of Appeals' decision in *Dariano v. Morgan Hill Unified School District* (March 30, 2015) 2015 U.S. Lexis 2190. As previously reported by Lozano Smith ([See Client News Brief No. 15, March 2014](#)), in *Dariano*, the Ninth Circuit held that school administrators did not violate students' constitutional rights to free speech when they prohibited students from wearing American flag clothing on Cinco de Mayo 2010. The Ninth Circuit found that considering the history of gang and race-related altercations on campus (one of which occurred on the prior year's Cinco de Mayo), school officials reasonably believed a violent disturbance could again occur as a result of the American flag clothing, and had acted to prevent substantial disruption and maintain student safety at school.

As discussed in [CNB No. 7, in December 2014](#), the student plaintiffs filed a petition for certiorari, asking the United States Supreme Court to review the Ninth Circuit's decision. Amicus briefs supporting the plaintiffs were filed by entities such as the Center for Constitutional Jurisprudence and Alliance Defending Freedom, as well as individuals John and Mary Beth Tinker (two of the plaintiffs in *Tinker v. Des Moines Independent Community School District* (1969) 393 U.S. 503, a student free speech case concerning protests to the Vietnam War). The *Dariano* plaintiffs and their amici argued the Ninth Circuit's decision had misinterpreted free speech law and conflicted with decisions issued by federal Courts of Appeals in other circuits.

In a one-line order without explanation or other comment, the United States Supreme Court declined to review the Ninth Circuit's decision. As such, the *Dariano* decision will stand.

For more on information on *Dariano* and its implications for student free speech in California, please contact one of our [nine offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).



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