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"If the First Amendment means anything, then school officials cannot prohibit students from handing out gifts with Christmas messages due to the religious content of those messages."

Damon W. Root | January 27, 2012

The Cato Institute's Ilya Shapiro describes what's at stake in the case of *Morgan v. Swanson*, which the Supreme Court may decide to take up this term:

> If the First Amendment means anything, then school officials cannot prohibit students from handing out gifts with Christmas messages due to the religious content of those messages. Nonetheless, the Fifth Circuit held *en banc* that student speech rights are not "clearly established," and that, therefore, two Plano, Texas officials could invoke qualified immunity to shield themselves from liability for doing so....
>
> Student speech rights were clearly established by the foundational student-rights case of *Tinker v. Des Moines School District* (1969), wherein the Court held that student speech cannot be suppressed unless the speech will "materially and substantially disrupt the work and discipline of the school," subject to limited exceptions. Such exceptions include lewd or vulgar speech, or speech that may reasonably be viewed as advocating unlawful drug use. Certainly the student speech at issue here, which included Christmas greetings written on candy canes, and pencils and other small gifts with messages like "Jesus loves me, this I know, for the Bible tells me so," does not fall under those exceptions.