

Weekend of fun turns sour for bowling group

The Second Front Page

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The Providence Sunday Journal, May 25, 1980

Homosexual's suit on prom centers on free-speech rights

By KAREN ELLSWORTH
Journal-Bulletin Staff Writer

PROVIDENCE — Is Aaron Fricke a brave young man who has taken a public stand on behalf of all homosexuals, a young man who is determined to exercise his right to attend his senior prom and have a good time like any other high school student?

Or is he, despite his brave words, a young man who is confused about his sexuality, frightened of the violence his presence at his senior prom might provoke, but determined anyway to disrupt a social event at which he and his male escort are not welcome?

The first Aaron Fricke is the one his lawyers have portrayed. The second Aaron Fricke is the one painted by Cumberland school officials.

Fricke himself, on the witness stand last week in U.S. District Court, said he wants to go to the Cumberland High School Senior Reception with a male escort this Friday night "for the same reasons other students would want to go . . . basically, I just feel that I have the right to do it."

BUT AARON FRICKE'S case, which will be decided this week by Chief Judge Raymond J. Pettine, involves more than a simple right. It involves complex legal issues with which courts have been grappling for decades: issues that involve a balancing of the rights of the individual and the rights of the community.

The case, as presented last week in testimony, arguments and voluminous legal memoranda prepared for Judge Pettine by the lawyers in the case, presents two questions:

Does Aaron Fricke want to go to his senior prom just to have a good time? Or does he want to make a political statement to his classmates, the kind of nonviolent political "speech" that is protected by the First Amendment?

If he did go to the prom with a male date, would there be a disruption? Is it possible for school officials to avoid such a disruption without barring Fricke from the dance or cancelling the dance altogether?

When Fricke asked school principal Richard B. Lynch for permission to attend the dance with a male date, Fricke testified last week, Lynch asked him why he wanted to do it. He said he would be helping "other gay students in the future."

LYNCH, HE SAID, asked him if he wanted to be a martyr. He said he replied that he thought of himself more as a plowser.

But Lynch denied Fricke's request to attend the prom. And through several hours of examination and cross-examination last week, Lynch, a former teacher and football and basketball coach who has been principal for six years, held fast to his reason:

"The chance of physical harm is real," Lynch testified.

One court decision is being relied upon by Lynette Labinger and John P. Ward, Fricke's lawyers, and V. James Santaniello, the School Department's lawyer, to support their arguments.

The decision, handed down in 1969 by the U.S. Supreme Court, involves a lawsuit brought against the Des Moines, Iowa, school district by a 15-year-old high school student named John E. Tinker, his sister and a friend. They were prohibited from wearing black armbands to school in 1965 to protest the Vietnam War.

Former Justice Abe Fortas, writing for

the majority, said the students had a right to wear the armbands as long as they did not disrupt school activities.

THERE WAS no evidence upon which school officials could have based their fear of "substantial disruption or of material interference with school activities," Fortas wrote.

"In order for the State, in the person of school officials, to justify prohibition of a particular expression of opinion, it must be able to show that its action was caused by something more than a mere desire to avoid the discomfort and unpleasantness that almost always accompany an unpopular viewpoint," Fortas wrote.

The situation is the same here, Fricke's lawyers argue. School officials have not proven that any physical violence will occur if Fricke and his date attend the prom, or that such violence can't be avoided by tightening security.

But in another part of the Tinker decision, Fortas said that "conduct by the student, in class or out of it, which for any reason — whether it stems from the time, place, or type of behavior — materially disrupts classwork or involves substantial disorder or invasion of the rights of others is, of course, not immunized by the constitutional guarantee of freedom of speech."

Judge Pettine probed these and other issues last week at the close of a two-day hearing on Fricke's request for a preliminary injunction against Lynch.

"Is being a 'pioneer' a First Amendment right?" Pettine asked Miss Labinger.

YES, SHE SAID. Fricke's aim is political as well as social, and his right to go to the prom is a right of free association guaranteed by the Constitution.

The Tinker case, the judge continued, said that behavior involving "substantial disorder" is not protected by the First Amendment; the others at the dance have a right to be safe.

"A hostile reaction to a peaceful statement is a violation of constitutional rights," Miss Labinger replied.

Pettine pressed on. Tinker, he said, contains "clear and unequivocal language" that the risk of serious disruption outweighs the constitutional right of the speaker.

Before speech can be suppressed, Miss Labinger replied, officials must take the "least restrictive alternatives" to prevent it. There is no proof that security is impossible to maintain at the prom, she said, only that it will be more difficult to ensure.


The judge questioned Santaniello in the same way. Would officials have to cancel the dance, he asked, if security could not be ensured?

"If we reached that conclusion," Santaniello replied, the dance would have to be cancelled.

So that means, Pettine questioned, that if officials decide to let the dance go on, even with Fricke there, they believe that they can adequately protect the crowd?

NOT NECESSARILY, Santaniello replied. "We might be beyond the opportunity" to cancel the prom, he said, noting

"Basically I just feel that I have the right to do it" —Fricke



Japan joins boycott of Olympics

50 nations decide to stay home as invitation deadline passes

NEW YORK — Japan's Olympic committee decided yesterday not to attend the 1980 Olympic Games in Moscow this summer as Washington and Moscow were both claiming victory in their tug-of-war over participation. The deadline for accepting invitations to the games expired yesterday.

Japan, West Germany (which had earlier decided not to go) and the United States were among the five top gold medal-winning nations in the 1976 Olympics at Montreal.

In Moscow, preparations for the games were proceeding on schedule, but some Soviet sports fans and coaches conceded in private conversations that competition in swimming, men's track and field and other events would be diminished by the absence of some world-class athletes.

Most nations of Western Europe and some other major allies of the United States were expected to send teams to the games, scheduled for July 19 to Aug. 3.

No official final count of the states to send athletes to Moscow expected before an announcement day by the International Olympic committee in Lausanne, Switzerland. Unofficial tallies indicated many as 63 national Olympic groups so far announced that they would compete and that 50 had decided away in accordance with President Carter's call for a boycott of the protest Soviet military intervention in Afghanistan. A number of others yet made a public announcement of intentions.

The United States, reporting countries would compete in their own right, but a big success that more countries might draw.

The Soviet Union, declaring that it would attend, asserted that its boycott campaign had "failed."

In Washington, Mr. Carter's plea that so many countries join the boycott. July 3 White House press secretary, many governments had favored the boycott but that their national committees had voted to participate. Some of these might renege on their intentions.

The State Department, holding Carter 3d, contended that the boycott had been an extraneous success. "My policy position is that the Olympic boycott was not well but that it had beyond any previous effort," he declared.

The State Department spokesman at the White House, Powell at the White House, the deadline for accepting invitations to the games could as theoretical and would be withdrawn.

In Moscow, the contended Washington's claim for the boycott "wishful" charged that the United States continuing its boycott campaign.

THE SOVIET press and describing the boycott as "unseemly intrigue," said common sense and good over the Carter administration and threats. "No men of Japan's decision to join the boycott," the Soviet gold medals, East Germany, United States 24, West Germany 9, South Korea, 51 Norway, which took or each, are among the boycotters. Uganda's new government reversed the boycott decision yesterday to send a team to Moscow, according to a sponsored Kampala news agency.

The boycott has been Asian nations, including would have been compelled for the first time since countries closest to the Pakistan and Iran are games while India and China are expected to attend.

Many of the United States allies had been expected to boycott, but Olympic committee, France, Italy and Argentina. The display of athletes clearly emboldened governments, including Minister Margaret Thatcher and Prime Minister Malcolm Fraser.

NBC, in reaction to the boycott, dropped plans for coverage of the Olympic audiences.

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—AP Photo

American-Kenneth, son.

As possible, even, talk about it, she said, was extra strength had to die as a je, he would not document." I hate that ing, I hate that I don't blame adding that he 18 months and 12 years. he end was slight if I cried, he id he was afraid id break down," ere were no tears. i captors left the or. She cried later.

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I, fine-lustre pearls, old clasp. \$310

flow gold ring. \$190

signet ring, yellow gold. \$400

Group dealt bad deal

Ralph and Marlon Camuso and about 25 other members of Mary's Catering Bowling League in Johnston decided in October that it would be fun to spend a weekend gambling and sampling the nightlife of Atlantic City.

So they signed up with Collette Tours, which lists offices in Pawtucket and Providence, for a three-day charter bus excursion to the New Jersey seaside resort. Each paid \$172 to cover traveling costs, two nights at Resorts International



DANGLING FEET: Two members of Barrington High School's girls' track team watch a 440-yard race amid a shower of spectators' feet at Brown Stadium. The race was part of the girls' high school state championship track meet yesterday. East Providence came in first, winning its first state title. Story and picture on page B-5.

—Journal-Bulletin Photo by BOB THAYER