

The *TPUSA at Arkansas State* Case

Case Name: *Turning Point USA at Arkansas State University v. Rhodes*

U.S. Appeals for The 8th Circuit Court Oral Arguments Date: June 18th, 2020

Significance: Whether public university officials should be liable for violating students' First Amendment freedoms.



Background: Ashlyn Hoggard, a student at Arkansas State University, set up a table to recruit students to join a campus chapter of Turning Point USA. Arkansas State officials called the police and kicked Ashlyn and another individual off the patio in front of the Student Union and threatened her with a violation of the student code of conduct, citing the university's speech policy. This policy funneled student expression to tiny speech zones making up 1% of campus, required advance permission to speak anywhere on campus, and gave university officials free reign to grant or deny students' requests to speak. In December 2017, ADF attorneys, on Ashlyn's behalf, filed a lawsuit against Arkansas State. The lawsuit prompted the state of Arkansas to enact campus free speech legislation known as the FORUM Act, which prohibits restrictive speech policies. This resulted in Arkansas State changing the policies used to censor Ashlyn, but the officials who violated Ashlyn's First Amendment freedoms have not faced any repercussions. And they still haven't acknowledged they were wrong. ADF attorneys have asked the 8th Circuit to vindicate Ashlyn and rule that university officials are not entitled to "qualified immunity" when they violate their students' clearly established First Amendment rights.

Key Points

- Speech isn't free when students have to ask permission before they can speak anywhere on campus.
- Free speech on campus is a no brainer—not just in tiny "speech zones," but everywhere on campus. A state shouldn't have to pass a law to force public school officials to follow the Constitution.
- Colleges should invite differing opinions, not suppress them. Higher education is a place for learning, and that requires allowing students to speak freely to other students while they're on campus.
- Arkansas State University officials prevented Ashlyn and her small group of friends from speaking anywhere on campus because they had not asked for permission ahead of time. The Constitution protects free speech for all students on a public campus, and University officials should not be allowed to violate such basic First Amendment freedoms without repercussions.

Key Facts

- ASU officials threatened to punish Ashlyn simply for setting up a table to gather signatures to recruit students to join her group—which ASU required her to do to be a registered student organization.
- ASU's unconstitutional "speech zone" policy funneled student speech deemed "offensive" to small areas on campus and required students to obtain the University's permission before speaking anywhere on campus—even in the tiny "speech zones."
- Under ASU's policies, officials were free to discriminate based on a viewpoint they didn't like and then make up neutral-sounding justifications after the fact.
- Although ASU changed its policies, schools in other states have not, and the lower court's decision sets a bad example that officials at other schools will follow if the decision is not reversed.

The Bottom Line: The only permit students need to speak on campus is the First Amendment.