

The Cornell Daily Sun

Vol. 125, No. 125 ■ ITHACA, NEW YORK, THURSDAY, APRIL 9, 2009 ■ 24 Pages – Free

IHS Paper Goes to Trial Over Censorship

By DANIELLE DAVIS
Sun Staff Writer

After four years of waiting, seven former editors of Ithaca High School's newspaper received some good news from federal judge Norman Mordue on Mar. 24: their lawsuit against the Ithaca City School District for infringing on students' First Amendment rights is now officially going to trial.

In 2004, The Tattler, IHS's student-run publication, printed some controversial pieces, including one that criticized their Principal, Joe Wilson. The ICSD promptly imposed an unprecedented set of guidelines on the Tattler, which, among other things, gave the administration veto power over any proposed paper content. Rob Ochshorn '09, The Tattler's editor-in-chief at the time,

resorted to publishing and distributing the paper underground for several months.

Despite months of negotiations, The Tattler staff and the ICSD could not reach a compromise.

"We proposed numerous sets of alternate guidelines, but the district wouldn't budge one bit from their original position," explained The Tattler's former editor Andrew Alexander.

The seven editorial board members unanimously decided to take the issue to court. They hired pro-bono lawyer Raymond Schlather of The Law Office of Schlather, Geldenhuys, Stumbar and Salk in Ithaca and sued the ICSD for infringing students' rights to freedom of speech.

See IHS page 4

4 THE CORNELL DAILY SUN | Thursday, April 9, 2009

NEWS

IHS Newspaper Brings District to Court

IHS

Continued from page 1

"This is a potentially very important case because so few cases involving student media ever go to trial," said Frank LoMonte, executive director of Student Press Law Center.

Judge Mordue has not reached a ruling as of yet — what he decided on Mar. 24 was to deny the district's request to dismiss the litigation. His decision was detailed in a 53-page document, which upheld the suit against the guidelines imposed on the paper.

If neither the plaintiffs nor the defendants appeal Mordue's decision by April 20, the case will be scheduled for trial after May 1. Both sides will then be able to put their witnesses on the stand and it will be decided whether Ithaca High School's overall pol-

icy concerning the publication is or is not constitutional.

The United States has had a long legal history concerning censorship and First Amendment rights. The two most prominent cases that guide these types of decisions are *Tinker v. Des Moines Independent Community School District* (1969) and *Hazelwood v. Kuhlmeier* (1988).

The Supreme Court ruling of the *Tinker* case held that "in the absence of specific showing of constitutionally valid reasons to regulate speech, students are entitled to freedom of expression of their views." Accordingly, any regulation of students' exercise of their First Amendment rights would violate the Constitution unless it could be "justified by a showing that students' activities would materially and sub-

stantially disrupt the work and discipline of the school."

In the case of *Hazelwood v. Kuhlmeier*, the Supreme Court somewhat contradictorily ruled that the school retained the right to impose "reasonable restrictions" on student speech. The court held that a school may deem a public forum "only if school authorities have by policy or by practice opened those facilities for indiscriminate use by the general public."

Ithaca High School's The Tattler had always been considered an open forum paper. It is completely run by a student staff and is overseen by a volunteer advisor. The monthly paper has a circulation of 3,000 and reaches beyond the immediate IHS community.

The Tattler is still operating under the same guidelines that the ICSD composed four years ago, but Andrew Alexander, former Tattler news editor, explained that these

guidelines are being enforced under sympathetic advisors and a scared district.

Ochshorn, who is now a senior at Cornell, agreed.

"The district is aware that if [it does] anything, we can run to the courts," Ochshorn said. "It would be very unwise for [the district] to attempt any sort of enforcement at this point."

After four years of involvement with the case, Ochshorn has high hopes for it.

"We'd love to set an example for other students that they can stand up for themselves and not be bullied ... it would be nice if we were able to provide them some glimmer of hope. We sure [are] inspired by other papers that were able to survive in the face of censorship. It would be an honor to be in that sort of role."

Danielle Davis can be reached at ddavis@cornellsun.com.