

ACLU Defends Student Expelled For Long Hair

Fifth Estate Collective

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The American Civil Liberties Union asked the U.S. Supreme Court to review the case of a Richmond Professional Institute student who was kept out of the college for his senior year because he sported a beard and long hair.

The Virginia liberal arts college refused to allow Norman Thomas Marshall to register in September, 1965. In a brief filed with the high court on behalf of Marshall, a 26 year old scholarship student and past editor of the college's literary magazine, the civil liberties group contended that the school's "arbitrary, capricious and unreasonable" action refusing him registration on account of his groom violated the constitutional rights to free expression, due process of law, privacy and protection against cruel and unusual punishment.

The Union is appealing from the decision of the Supreme Court of Appeals of Virginia, affirming a lower court ruling against the student's request for a permanent injunction to prevent RPI officials from requiring a shave and haircut as registration prerequisites.

The ACLU brief maintained that RPI's refusal to register Marshall unconstitutionally restrained his First Amendment right to freedom of expression. The brief pointed out that the school's action "penalizes the student for exercising a constitutional right of personal expression and self-expression by way of a well-rooted symbolic language in our society." The Union brief added: "The type of conformity demanded by RPI carries a striking resemblance to that demanded in totalitarian lands. In pre-war Germany and Japan the students wore the same uniform—looked and dressed alike."

Richmond Institute allegedly based its refusal to accept Marshall on the campus guide to student life, "The Signpost," which calls for "acceptable standards in...dress." The Union brief charged that this regulation "is stated in general terms [and] does not adequately describe proscribed conduct," thus violating due process of law. To back up its attack on the "vague and meaningless language" of the guidebook rule, the ACLU brief quoted from the trial testimony of Dr. George Oliver, president of the Institute: "Now, there is no specific written regulation in the Signpost which says there shall not be beards nor long hair. The general statement as to personal appearance, which is regarded by the administration as undesirable, having adverse effect on the institution, is covered in the general statement."

The Union, again drawing on Dr. Oliver's statements, further underscored the murkiness of the proscription against too much hair. Asked about mustaches, Dr. Oliver said at the trial: "There is no limitation on the mustaches. If a man wants to take a chance on walking down the halls with a quite long one, he can go."

In addition, the ACLU brief charged that the college's refusal to register Marshall constituted cruel and unusual punishment in violation of the Eighth Amendment: "A disrupting and sabotaging of Marshall's education for no reason more than the fact that he wore his hair and beard in a manner that displeased the defendants constitute an unusual punishment," the brief said, adding: "Punishment does not have to be barbaric to be 'cruel.' Several times Courts have held that 'brutality' extends beyond the mere infliction of physical pain. Where the mode of punishment inflicts psychological distress on a person, such punishment may be both 'cruel and unusual.'"

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