



The JagWire--M.R.B. v Puyallup (2012)

Four students and their parents sued three reporters from the Emerald Ridge High School's student newspaper the *JagWire*, as well as two faculty members and the Puyallup (Washington) School District for invasion of privacy, negligence and the intentional infliction of emotional distress. They each sought up to \$1.5 million in damages in the Washington state courts.

The four students claimed they had not given permission to the *Jagwire* to publish their statements about their sexual activity in a 2008 article on teen sexual practices, including oral sex.

The student journalists made a convincing case that they had acted both ethically and legally and had secured the students' permission to publish their accounts. They reported they had checked the students' quotes with the students, ensuring that they were each quoted accurately. They had re-verified with each of the students that they had given permission to be quoted. They had respected another student's request to retract her comments. (The *JagWire* did not use signed consent forms and has since instituted a policy of requiring written consent if students are interviewed on sensitive topics. The interview tapes had been re-used.)

Courts generally hold that a person can legally give consent to be interviewed if the person has the legal capacity to give consent, regardless of age. A minor who is capable of understanding the consequences of an interview may give consent, even if the parents do not consent.

The jury ruled in favor of the student journalists, the teachers and the school district. It determined that the article possessed a level of newsworthiness, a legal defense in invasion of privacy cases. The *JagWire* had reported that 37 percent of the students at the school had engaged in oral sex, but that the district sex education curriculum did not address the topic. The significant quality of the students' article seems to have contributed to the verdict. Good quality journalism was a sound legal defense.

The plaintiffs, the four students and their parents who sued the district, also claimed that the school district was negligent when it allowed the article. During the trial, the judge ruled the *JagWire* was not public forum and so could have been restrained by district officials under the Hazelwood standard. However, the school district argued the paper operated under the "educational practice" of an open forum where students had the ultimate control over content.

The jury did not rule on the issue of the school district's responsibility. Rather they decided that there had been no invasion of privacy. If there was no invasion of privacy, there was no need to assign responsibility and so no need to decide the forum-status of the *JagWire*.

The four plaintiffs and their parents filed an appeal, requesting a new trial. In their appeal, they challenged the paper's status as an open forum. The Washington Court of Appeals denied their request for a new trial.

by Janet Ewell • Permission granted to use at will for non-commercial purposes