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Loss for the Student Press

First Amendment lawsuits by student journalists at public universities become moot when the plaintiffs graduate, according to [a decision](#) by the U.S. Court of Appeals for the 10th Circuit.

The ruling came in an appeal by two former editors of *The Kansas State Collegian*, who charged that their First Amendment rights were violated in 2004 when the university removed Ron Johnson, a journalism professor, as the newspaper's adviser.

The appeals court ruled that "because defendants can no longer impinge upon plaintiffs' exercise of freedom of the press, plaintiffs' claims for declaratory and injunctive relief are moot." The court went on to say that "there is no reasonable expectation that [the former editors] will be subjected, post-graduation, to censorship by defendants."

The court noted that the current editors could sue over their First Amendment rights, but since they had not done so earlier, their interests could not be considered now.

Having decided that the suit was moot, the appeals court rejected it, and did not consider the merits of the arguments.

Appeals courts decisions become law in their circuits (in this case, in Colorado, Kansas, New Mexico, Oklahoma, Utah and Wyoming) and can be cited as precedent elsewhere.

Last week's ruling could hinder First Amendment suits by students. Such litigation typically takes a long time and it would be hard for a case brought by editors to proceed very far before someone graduates.

Mark Goodman, executive director of the [Student Press Law Center](#), issued this statement about the ruling: "The court created a standard for mootness that makes it impossible for virtually any student to make a First Amendment claim because they will graduate before their case is concluded. It's just plain wrong."

The Student Press Law Center was among several journalism groups that backed the Kansas State student journalists because of the [First Amendment issues in the case](#).

Johnson, who remains a journalism professor at the university, was dismissed in the wake of protests at Kansas State over the newspaper's perceived lack of coverage of diversity issues. Kansas State officials defended their decision by citing a "content analysis" they performed on the newspaper, which compared the number of articles of various type and the number of "diversity" items compared to those in other papers.

The students and journalism groups said this analysis was ultimately just a cover for making unconstitutional content-based decisions on the direction of the paper. The appeals court did not address those issues.

— [Scott Jaschik](#)

The original story and user comments can be viewed online at <http://insidehighered.com/news/2007/07/30/kstate>.