

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

TYLER CHASE HARPER, a minor, by
and through his parents Ron and
Cheryl Harper; RON HARPER; CHERYL
HARPER,

Plaintiffs-Appellants,

v.

POWAY UNIFIED SCHOOL DISTRICT;
JEFF MANGUM; LINDA VANDERVEEN;
PENNY RANFTYLE; STEVE McMILLAN;
ANDY PATAPOW, All Individually and
in their official capacity as Members
of the Board of the Poway Unified
School District; DONALD A. PHILLIPS,
Individually, and in his official
capacity as Superintendent of the
Poway Unified School District;
SCOTT FISHER, Individually and in his
official capacity as Principal of
Poway High School; LYNELL
ANTRIM, Individually and in her
official capacity as Assistant
Principal of Poway High School; ED
GILES, Individually and in his
official capacity as Vice Principal of
Poway High School; DAVID
LEMASTER, Individually and in his
official capacity as Teacher of
Poway High School; DOES 1
THROUGH 20, INCLUSIVE,

Defendants-Appellees.

No. 04-57037

D.C. No.
CV-04-01103-JAH
Southern District
of California,
San Diego

ORDER
AMENDING
OPINION

Filed May 31, 2006

Before: Stephen Reinhardt, Alex Kozinski, and
Sidney R. Thomas, Circuit Judges.

ORDER

The majority opinion filed April 29, 2006, is hereby amended as follows:

1. At Slip Op. at 4676, footnote 28, at the end of the footnote, add: “We do not exclude, however, the possibility that some verbal assaults on the core characteristics of majority high school students would merit application of the *Tinker* “intrusion upon the rights of other students” prong. That question is not presently before us.”

The dissenting opinion filed April 29, 2006, is hereby amended as follows:

1. At Slip Op. at 4710, footnote 11, between <*Id.* at 4667.> and <Read broadly, this would protect>, add: “The majority also does not “exclude . . . the possibility that some verbal assaults on the core characteristics of majority high school students would merit application of the *Tinker* ‘intrusion upon the rights of other students’ prong.” *Id.* at ___ n.28.

Appellants’ petition for rehearing en banc is still pending before this court.

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