

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

JOSEPH FREDERICK,)
)
 Plaintiff,)
)
 v.)
)
 DEBORAH MORSE, et al.,)
)
 Defendants.) Case No. J02-008 CV (JWS)
_____)

ORDER PARTIALLY VACATING JUDGMENT OF
MAY 29, 2003, AND DIRECTING ENTRY OF FINAL JUDGMENT
IN FAVOR OF DEFENDANTS

Pursuant to the Ninth Circuit's orders of August 23, 2007, and September 10, 2007, the Court has reviewed the briefs submitted to the Ninth Circuit supporting and opposing Appellees' Suggestion of Mootness and Appellant's Cross-Motion for Further Proceedings and to Certify State Law Questions.

The only question left unresolved by the decision of the United States Supreme Court in Morse v. Frederick, 551 U.S. ___, 127 S.Ct 2618, 168 L.Ed.2d 290 (2007), is the fate of plaintiff Joseph Frederick's ("Frederick's) claims for declaratory and injunctive relief under Article I, Section 5, of the Alaska Constitution. In its Order of May 29, 2003, this Court disposed of those claims in favor of defendants the Juneau School Board and Deborah Morse ("the

Board”). By Order dated May 27, 2003, this Court also ruled that AS 14.33.140 grants immunity from damage claims to both the Board and Morse. That ruling was not appealed and is now law of the case.

It appears from the record that Frederick has graduated from Juneau Douglas High School, and that the Superintendent of the Juneau School District has expunged all references to discipline of Frederick arising out of the Bong Hits 4 Jesus incident. Accordingly, Frederick’s remaining claims for declaratory and injunctive relief under Alaska law are moot.

Insofar only as this Court’s Judgment of May 29, 2003, dismissed Frederick’s claims for relief under Count II of the Complaint, alleging violations of Alaska Constitutional rights, that judgment is vacated pro tanto and those claims are dismissed as moot. An Amended Final Judgment will be entered in favor of defendants on Count I of Frederick’s Complaint, alleging violations of federal Constitutional rights.

Counsel for defendants shall lodge a proposed amended judgment for the court's consideration within 20 days from the date of this order.

IT IS SO ORDERED, this 10th day of October, 2007, at Anchorage, Alaska.

/s/ John W. Sedwick
United States District Judge