

HYPO: HICKORY HIGH

At the time of the events at issue, Justin Layshock was a 18-year old senior at Hickory High School and Rory Glenn, his best friend, was an 18-year old recent graduate. Hickory High School is a public high school in rural Pennsylvania.

On or about December 10, 2007, Justin created a parody profile of Eric Trosch, the well-known Principal of Hickory High, on the popular website, MySpace.com. Trosch was at the time considering running for city mayor and had recently begun attracting regional news coverage. Everyone agrees that Justin used his grandmother's computer, at her home, during non-school hours. No school resources were used to create the profile but for a photograph of Trosch that Justin copied from the school's website by performing a simple "copy and paste" operation. Rory created a similar parody profile, also using his own personal computer. He used the same picture of Trosch, which was forwarded to him via email by Justin.

MySpace profiles ask users to answer questions about their favorite movies, TV shows, and hobbies. Justin's answers to the questions, which appeared to be by and about Trosch, centered on the theme of "big." The answers ranged from nonsensical answers to crude juvenile language on the other. For example, in response to the question "in the past month have you smoked?," the profile says "big blunt." In response to a question regarding alcohol use, the profile says "big keg behind my desk." In response to the question, "ever been beaten up?," the profile says "big fag." The answer to the question "in the past month have you gone on a date?" is "big hard-on." The profile also refers to Trosch as a "big steroid freak" and "big whore." The profile also reflected that Trosch was "too drunk to remember" the date of his birthday. Rory's website contained many of the same parodies as Justin's and read: "hi! im eric trosh i have 2 kids and im a princaple [sic] at hickory high. well liked cause of my size and i get alot [sic] of hoes cause i cheat on my wife on my son's bed...my hero is michael jackson thats [why] i became a princeaple jack off so i can look at all the little girls and boys." Rory's site also stated that the married Trosch "is fucking [School Superintendent] karen 'the whoppa' ionta on ur mom's bed," that he "liked to make little boys cry" with his "whole 3 inches," and linked to a pornographic website.

Justin and Rory sent their profiles to students in the school district by adding them as "friends" to their page, and word of the profiles soon reached most of the student body of Hickory High School, as well as some of the students' parents. Trosch first learned of the existence of Justin's and Rory's profiles on December 11 from his daughter, a 6th grade student in the same school district. On Monday, December 12, 2007, a distraught Trosch told co-principal Chris Gill and superintendent Ionta about the profiles and asked Technology Director Frank Gingras to disable students' access to MySpace.com. The MySpace site has, however, other web addresses, and students found other ways to access the profiles. Justin was able access his profile from a computer in the Spanish classroom on December 15, when he showed the profile to other classmates.

Teachers were for the most part unaware of students' attempts to access the MySpace profiles. Two incidents have since come to light. First, computer science teacher Craig Antush observed students congregating and giggling in his Introduction to Computing class, glimpsed Justin's and Rory's profiles on the computer, and told the students to shut MySpace down. Antush also mentioned that at least one student clicked on the pornographic link during the computer class, but that the school's firewall "luckily" prevented access. Antush did not report these incidents to school administrators. Second, accounting teacher Leslie Anderson mentioned that one of her students had come to her visibly upset after seeing "pretty vulgar and just gross things about Trosch and Superintendent Ionta" on a MySpace page. Anderson did not follow up with the student, but she did mention it to Co-principal Gill.

On Friday morning, December 16, 2007, Trosch convened a mandatory teachers' meeting. Many

of the teachers came to the meeting unaware of the emerging MySpace controversy. During the meeting, Trosch became very emotional and could not continue. Gill then took over, explained to the staff that there was a disruption, and asked teachers to send all students who might have information about the MySpace profiles to the Principal's office. The school officials then agreed that access to MySpace should be blocked. Because Frank Gingras, the school's technology director, was on vacation, Gill called MySpace directly. A public relations executive at MySpace refused their request.

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eric



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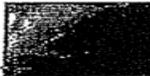
About me:
hi im eric trosh i have 2 kids and im a principle at hermitage high.. well liked cause of my size and i get alot of hoes cause i cheat on m my sons bed...my hero is michael jackson thats y i became a prince can look at all the little girls and boys..although im really big at hea nice person and like the dick... cause mine is only a whole 3 inches. make little boys cry thats the bests part cause it makes me feel lufe some of the othair teachers...well thats all i have to say if u have an questions u know where to find me...i love u mr. gill

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ur mom in a teacher conferous and sometiems ur dad

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eric's Friends Comments

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Some days later, Trosch, Gill, and Iota contacted Justin and Rory, as well as their parents. Both youths refused to take down their profiles---although Rory did admit that he had made up the story about the affair between Trosch and Ionta.

On January 6, 2008, Justin was suspended from school and is now attending adult education classes. Although school officials have assured him that he will graduate with a high school diploma, he is on permanent suspension from Hickory High and is not able to join his classmates for commencement exercises. On January 10, 2008, Justin filed suit against the school board in the U.S. District Court for the Western District of Pennsylvania claiming that his First Amendment rights under the federal constitution have been violated and seeking that he be reinstated as a full-time student at Hickory High. Trosch joined the case and filed counterclaims against Justin, Rory, and MySpace.com, citing state indecency and libel laws and demanding that the profiles be taken down immediately.

