**Foundations of Government** Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
*Mahanoy Area School District v. B.L.* (2021)Mr. Faulhaber Class Period\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Classifying Arguments: The following is a list of arguments in the **Mahanoy Area School District v. B.L.(2021) *Supreme Court*** case. Read through each argument and decide whether it is an **Arguments for** *Mahanoy Area School District* (*M*) **or *if* it** supports the position of the ***student,*** *B.L*(*BL*)**.** Place the appropriate mark in the blank provided AND circle the appropriate ***letter***. *½ Point Each*

\_\_\_\_1. (M/BL): No matter where speech originates, schools should be able to treat students the same when their speech is directed at the school and causes the same disruption on the school environment.

\_\_\_\_2. (M/BL): As *Tinker v. Des Moines* established, “Students do not check their First Amendment rights at the schoolhouse gate,” but the First Amendment does not force schools to ignore speech that disrupts the school environment or invades other students’ rights just because the student speaks from one step outside the schoolhouse gate.

\_\_\_\_3. (M/BL): B.L.’s snaps were posted on a Saturday, off campus, not during any school-sponsored activity, and sent from B.L.’s personal smartphone to only her Snapchat friends. The school should not have any authority over this speech.

\_\_\_\_4. (M/BL): Concerns about school censorship are exaggerated because even if schools are able to discipline off-campus speech that causes a disruption, they still will not be able to punish speech only because they disagree with the message.

\_\_\_\_5. (M/BL): B.L.’s off-campus speech disrupted the learning environment at MAHS. Students were talking about the snaps during class time, and it caused conflict within the cheerleading team.

\_\_\_\_6. (M/BL): The fact that most students have smartphones and the complexity of remote and hybrid learning during the pandemic, makes the decision of the U.S. Court of Appeals (that *Tinker v. Des Moines* does not apply to off-campus speech) difficult to apply in real-life situations.

\_\_\_\_7. (M/BL): If schools have authority to discipline students’ social media posts that encompass anything said to a classmate, regardless of topic, and anything said about the school, regardless of audience, it is tantamount to them having authority over students’ whole lives since a vast majority of young people’s speech falls within those vague categories.

\_\_\_\_8. (M/BL): The snaps taken on a Saturday would not still be visible by the time school started on Monday morning. This shows that B.L. did not intend to disrupt school and could not have reasonably foreseen that it would. Her original snap was not the cause of the disruption (if there was one).

\_\_\_\_9. (M/BL): It will be impossible for schools to clearly define what “off campus” and “on campus” means. If on the weekend a student uses a private email to blast harassing messages to school email accounts, is that off-campus or on-campus speech?

\_\_\_\_10. (M/BL): Only B.L.’s Snapchat friends could see the snaps, which were not otherwise public. It was only visible on campus because another student took a screenshot of the snap and shared it within the school. It was not B.L.’s action, but the act of a third party that brought the snap to school.

\_\_\_\_11. (M/BL): The snap did not identify any school official or MAHS by name. In the photo, B.L. was not wearing her cheerleading uniform, there was no school logo visible, and there was nothing in the photo connecting B.L. or her friend to the school.

\_\_\_\_12. (M/BL): Off-campus student speech is only within the school’s authority when the student directs their speech at the school community, as B.L. did in this case.

\_\_\_\_13. (M/BL): The snaps were spontaneous expressions of frustration and were not threatening nor harassing. If they had been, the school could have acted because they do have the authority to punish true threats, harassment, bullying, and cheating even if it occurs off campus.

\_\_\_\_14. (M/BL): Even if the Court does apply *Tinker* to this off-campus speech, B.L.’s snaps were not substantially disruptive to the school environment. They, therefore, fail the Tinker Test (or substantial disruption standard) that allows schools to discipline the speaker.

\_\_\_\_15. (M/BL): Extending the school’s authority everywhere young people go would teach them to avoid saying anything that might be controversial, politically incorrect, or critical of the status quo (the way things are), for fear of punishment by the government. This would undermine the First Amendment.

\_\_\_\_16. (M/BL): Schools need to be able to prevent harassment and bullying that impacts students at school without any limitations on where the harassment originates. The ruling in this case will impact the school’s ability to discipline online harassment and cyberbullying.

**The Argument(s) above I thought was most persuasive stated….** **because…**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
**What you need to know before you begin:** When the Supreme Court decides a case, it clarifies the law and serves as guidance for how future cases should be decided. Before the Supreme Court makes a decision, it always looks to precedents—past Supreme Court decisions about the same topic—to help make the decision. A principle called *stare decisis* (literally “let the decision stand”) requires that the precedent be followed. If the case being decided is legally identical to a past decision, then the precedent is considered binding and the Supreme Court must decide the matter the same way. However, cases that make it to the Supreme Court are typically not completely identical to past cases, and justices must consider the similarities and differences when deciding a case.

The process of comparing past decisions to new cases is called applying precedent. Lawyers often argue for their side by showing how previous decisions would support the Supreme Court deciding in their favor. This might mean showing how a previous decision that supports their side is analogous (similar) to the case at hand. It can also involve showing that a previous decision that does not support their side is distinguishable (different) from the case they are arguing.

**Applying Precedent:** Determine which side the Supreme Court would rule in favor of (*Mahanoy Area School District or B.L.*)if the Court found the case **analogous** (similar) and whose precedent should apply in their ruling:

1. If SCOTUS used the precedent from *Tinker v. Des Moines*, the Court would rule for *Mahanoy Area School District/B.L* (circle one) because:

2. If SCOTUS used the precedent from *Hazelwood v. Kuhlmeier*, the Court would rule for *Mahanoy Area School District/B.L* (circle one) because:

3. If SCOTUS used the precedent from *Bethel v. Fraser*, the Court would rule for *Mahanoy Area School District/B.L* (circle one) because:

4. If SCOTUS used the precedent from *Morse v. Frederick*, the Court would rule for *Mahanoy Area School District/B.L* (circle one) because:

5. The question the Court had to decide in this case was: Does the First Amendment Prohibit public school officials from regulating off-campus student speech? Based on the application of the precedent, how should *Mahanoy Area School District v. B.L.* be decided?
 **If I was a Supreme Court Justice, I would you decide the case for… because…**
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