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You're in the Army now, your First Amendment Rights Are Circumscribed

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10.2—Other Supreme Court cases

12.0—Military criminal justice

Parker v. Levy, 417 U.S. 733 (1974).²

Jacob J. Parker was convicted, by a general court-martial, of “making public statements urging Negro enlisted men to refuse to obey orders to go to Vietnam and referring to Special Forces personnel as ‘liars and thieves,’ ‘killers of peasants,’ and ‘murders of women and children.’” The Supreme Court rejected his argument that Articles 133 and 134 of the Uniform Code of Military Justice (UCMJ)³ were a violation of his First Amendment right to free speech. The Supreme Court reinforces the concept of the military’s “specialized society separate from civilian society” and explains the military’s need to maintain order and discipline. Therefore, conduct which disturbs this order is not protected by the First Amendment. The court ruled that, due to the special nature of the military, certain rights granted under the first amendment “must be accorded a good deal less weight in the military context.”

So what is covered under the First Amendment? Quite a bit. In Parker’s case, we see threat of disobedience and conduct which abuses the individual’s position in the military. Both these factors are what the court looks at in limiting First Amendment rights. If you are out of uniform, respectfully presenting your views, and not encouraging disobedience in the military, your speech is fully protected under the First Amendment. This may sound restrictive but it is has been ruled necessary in order to maintain the “specialized society” of the military and for our nation to defend itself against enemies.

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² The citation means that you can find this case in Volume 417 of *United States Reports*, starting on page 733. Only decisions of the United States Supreme Court are published in *United States Reports*.

³ Congress enacted the UCMJ (64 Stat. 109) in 1950, as a replacement for separate military justice codes for each service. The UCMJ applies to all five armed forces—the Army, Navy, Marine Corps, Air Force, and Coast Guard. The UCMJ is codified in chapter 47 of title 10 of the United States Code. Article 133 of the UCMJ forbids conduct prejudicial to the good order and discipline of the armed forces. Article 134 forbids conduct unbecoming an officer.