

## LYRICS SPEAK LOUDER THAN WORDS: MUSIC AS A WEAPON DURING THE VIETNAM WAR

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The Vietnam War is one of the longest wars ever fought by the United States, second only to the Afghanistan War.<sup>2</sup> The Vietnam War lasted nearly 20 years and saw the United States spend over \$120 billion on the conflict.<sup>3</sup> The United States' involvement aimed to prevent the formation of a unified Vietnam under communist control.<sup>4</sup> As the war progressed, the conflict became extremely divisive among the American population.<sup>5</sup> The disapproval of the United States's involvement in the war amongst the public sparked many protests—which played an instrumental role in developing the First Amendment, bringing us cases like *New York Times Co. v. United States*, *Tinker v. Des Moines Independent Community School*, and *United States v. O'Brien*.<sup>6</sup>

The First Amendment is the foundational principle of political and opinionated discourse in the United States.<sup>7</sup> Since the birth of America, music is one of the instrumental ways that citizens and military members have been able to actively engage in discourse and express displeasure via the First Amendment.<sup>8</sup> The Vietnam War lasted almost two decades. It was a time rich in

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<sup>2</sup> Claire Barret, *Vietnam: A History of America's Controversial War*, HISTORYNET (Sept. 21, 2021), <https://www.historynet.com/the-vietnam-war-a-history-of-americas-controversial-war/>.

<sup>3</sup> *Vietnam War: Causes, Facts & Impact*, HIST. (Feb. 27, 2025), <https://www.history.com/articles/vietnam-war-history#When-Did-the-Vietnam-War-End>.

<sup>4</sup> Barret, *supra* note 2.

<sup>5</sup> *Id.*

<sup>6</sup> See William W. Riggs, *Vietnam War*, FIRST AMEND. ENCYC. (Jul. 5, 2024), <https://firstamendment.mtsu.edu/article/vietnam-war/>.

<sup>7</sup> See *Texas v. Johnson*, 491 U.S. 397, 414 (1989) (stating “If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.”).

<sup>8</sup> See Bridgett Henwood, *The History of American Protest Music, from “Yankee Doodle” to Kendrick Lamar*, VOX (May 22, 2017), <https://www.vox.com/culture/2017/4/12/14462948/protest-music-history-america-trump-beyonce-dylan-misty>.

expression, culture, and counterculture, with more than 5,000 songs recorded about the war.<sup>9</sup> This blog will examine different songs and their varying viewpoints about the state of the United States and its involvement in the Vietnam War at the time.

## I. *FORTUNATE SON*<sup>10</sup>

*Fortunate Son* took direct aim at the hypocrisy of American leaders and political figures in relation to the draft system.<sup>11</sup> Draft-eligible men commonly avoided conscription by enlisting in another branch, where there was a lessened chance of being placed on the front lines and higher chance attending college.<sup>12</sup> Creedence Clearwater Revival frontman John Fogerty was frustrated by hearing stories about the children of politicians who received a deferment from the military or a choice position.<sup>13</sup> Fogerty found this privilege symbolic because the legislation politicians were vehemently advocating for did not affect their children.<sup>14</sup>

This issue hit close to home for Fogerty, who was called up to the U.S. Army Reserves in 1966.<sup>15</sup> While Fogerty was fortunate enough not to be deployed in Vietnam, he watched as politicians actively supported the conflict while doing all they could to ensure that their children avoided the draft.<sup>16</sup> Fogerty highlights the privilege of those fortunate enough to be born into influential families, singing, “[s]ome folks are born silver spoon in hand, lord, don’t they help

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<sup>9</sup> Justin Brummer, *The Vietnam War: A History in Song*, HIST. TODAY (Sept. 25, 2018), <https://www.historytoday.com/miscellanies/vietnam-war-history-song>.

<sup>10</sup> CREEDENCE CLEARWATER REVIVAL, *Fortunate Son, on WILLY AND THE POOR BOYS* (EXPANDED EDITION) (Concord Music Grp. 1969).

<sup>11</sup> JOHN FOGERTY, *FORTUNATE SON: MY LIFE, MY MUSIC* 190 (Illustrated ed. 2016).

<sup>12</sup> Dave Roos, *7 Ways Americans Avoided the Draft During the Vietnam War*, HIST. (Feb. 7, 2025), <https://www.history.com/articles/vietnam-war-draft-avoiding>.

<sup>13</sup> FOGERTY, *supra* note 11.

<sup>14</sup> *Id.*

<sup>15</sup> Eric Pilgrim, *52 Years Later, Rock Legend Fogerty Remembers Time in Army*, U.S. ARMY (Sept. 20, 2019), [https://www.army.mil/article/227291/52\\_years\\_later\\_rock\\_legend\\_fogerty\\_remembers\\_time\\_in\\_army](https://www.army.mil/article/227291/52_years_later_rock_legend_fogerty_remembers_time_in_army).

<sup>16</sup> See Robert Hilburn, *Q & A With John Fogerty: The Force Behind Creedence*, LA TIMES (Jan. 12, 1993), <https://www.latimes.com/archives/la-xpm-1993-01-12-ca-1226-story.html> (saying “[i]t was the time of the Vietnam War and there were all these politicians and other people at the top who stood around waving the flag, but they were able to manipulate things so that their children weren’t touched . . .”).

themselves, lord?”<sup>17</sup> He then contrasts this with his own lack of privilege, declaring, “[i]t ain’t me, it ain’t me, I ain’t no senator’s son.”<sup>18</sup> Fogerty reinforces this theme by altering the hook throughout the song, singing “I ain’t no military son,”<sup>19</sup> and “I ain’t no millionaire’s son.”<sup>20</sup> Here, he voices how political families, the upper-middle and upper class, could afford to send their children to college to avoid the draft or use political connections to secure their children preferential military service.

## II. OHIO<sup>21</sup>

Following President Nixon’s announcement that the United States invaded Cambodia, protests broke out on college campuses nationwide.<sup>22</sup> What began as a peaceful protest in downtown Kent turned into a violent confrontation between protestors and local police, leading the Kent mayor to declare a state of emergency and seek assistance from Governor James Rhodes.<sup>23</sup> The following day, the mayor urged the governor to send the Ohio National Guard to Kent.<sup>24</sup> When the National Guard arrived at Kent State University on May 2, 1970, they found the wooden building housing the Reserve Officers Training Corps (“ROTC”), a college program that trains students to become military officers,<sup>25</sup> ablaze, with over 1,000 demonstrators surrounding

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<sup>17</sup> CREEDENCE CLEARWATER REVIVAL, *supra* note 10, at 00:46.

<sup>18</sup> *Id.* at 00:33.

<sup>19</sup> *Id.* at 01:05.

<sup>20</sup> *Id.* at 01:48.

<sup>21</sup> CROSBY, STILLS, NASH & YOUNG, *Ohio, on SO FAR* (Atl. Recording Corp. 1974).

<sup>22</sup> Jerry M. Lewis & Thomas R. Hensley, *The May 4 Shootings at Kent State University: the Search for Historical Accuracy*, KENT STATE UNIVERSITY, <https://www.kent.edu/may-4-historical-accuracy> (last visited Apr. 17, 2025).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Reserve Officers’ Training Corps (ROTC) Program*, TODAY’S MIL., [https://www.todaysmilitary.com/education-training/rotc-programs#:~:text=Reserve%20Officers%20Training%20Corps%20\(ROTC\)%20is%20a%20leadership%20training,the%20College%20Student%20Pre%2DCommissioning](https://www.todaysmilitary.com/education-training/rotc-programs#:~:text=Reserve%20Officers%20Training%20Corps%20(ROTC)%20is%20a%20leadership%20training,the%20College%20Student%20Pre%2DCommissioning) (last visited Apr. 17, 2025).

the building.<sup>26</sup> The next day, nearly 1,000 Ohio National Guardsmen were on campus.<sup>27</sup> After the banning of a May 4, 1970, rally, 3,000 protestors took to the Kent common area to protest the presence of the National Guard and the continuance of the Vietnam War.<sup>28</sup>

The Kent State police ordered the protestors to disperse and reiterated that the May 4 rally had been banned by Governor Rhodes.<sup>29</sup> Protesters met this order with angry shouting and throwing rocks, leading to the police firing tear gas canisters into the crowd.<sup>30</sup> National Guardsmen followed the retreating students until they cornered the students on the school's practice football field. Yelling and rock-throwing continued.<sup>31</sup> National Guardsmen then retraced their footsteps uphill until twenty-eight of the seventy Guardsmen opened fire into the air, ground, and directly at the crowd.<sup>32</sup> Between sixty-one and seventy-six shots were fired in thirteen seconds, leading to the deaths of four Kent State students.<sup>33</sup>

*Ohio* speaks directly to the events that took place at Kent State. The song opens, declaring that “tin soldiers and Nixon’s comin’,” speaking of the National Guardsmen who were under President Nixon’s authority on the day of the shooting.<sup>34</sup> The chorus belts, “gotta get down to it, soldiers are gunning us down, should have been done long ago.”<sup>35</sup> The lyric about soldiers gunning students down is self-explanatory; however, the lyric “should have been done long ago” is about

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<sup>26</sup> Lewis & Hensley, *supra* note 22.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> Lewis & Hensley, *supra* note 22.

<sup>33</sup> *Id.*

<sup>34</sup> CROSBY, STILLS, NASH & YOUNG, *supra* note 21, at 00:25.

<sup>35</sup> *Id.* at 00:38.

a Gallup poll conducted the following day, which found that 58% of respondents blamed the unarmed students for the shooting while only 11% blamed the guardsmen.<sup>36</sup>

A presidential commission issued a report finding that the shooting was unjustified, and a grand jury indicted eight of the National Guardsmen, but a district court judge dismissed the charges in 1974.<sup>37</sup> The victims and their families brought a civil action for wrongful death and injury against the Ohio Governor, seeking damages of \$46 million, which resulted in unanimous verdicts for all defendants on all claims.<sup>38</sup> However, an appeals court reversed that judgment after finding that the federal trial judge mishandled an out-of-court threat against a juror, resulting in Ohio settling the case for a total of \$675,000 to all plaintiffs.<sup>39</sup>

### III. *OKIE FROM MUSKOGEE*<sup>40</sup>

Merle Haggard's *Okie From Muskogee* serves as a sharp contrast to the aforementioned songs. Fans debate the seriousness of the song, with some claiming its satire and others calling it a patriotic anthem; in fact, Merle Haggard admits to it being both.<sup>41</sup> Humorously stated, *Okie From Muskogee* is a protest song, protesting protestors. The song opens by taking sharp jabs at United States counterculture at the time and those taking to the streets to protest the Vietnam War, singing, "[w]e don't smoke marijuana in Muskogee, we don't take our trips on LSD."<sup>42</sup> Marijuana use was prevalent within the counterculture, which coincided largely with those taking part in anti-war

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<sup>36</sup> *The Shootings*, KENT STATE GUARDSMEN ORAL HIST. PROJECT, <https://www.kentguardvoices1970.com/the-shootings.html> (last visited Apr. 17, 2025).

<sup>37</sup> *Id.*

<sup>38</sup> *The Shootings*, *supra* note 36.

<sup>39</sup> *See* Krause v. Rhodes, 640 F.2d 214 (6th Cir. 1981).

<sup>40</sup> MERLE HAGGARD, *Okie From Muskogee*, on DOWN EVERY ROAD 1962-1994 (Capitol Records Nashville 1996).

<sup>41</sup> *See* Andrew Mies, *Truth or Satire? A Hard Look at Merle Haggard's 1969 Hit "Okie From Muskogee"*, WHISKEY RIFF (Aug. 24, 2024), <https://www.whiskeyriff.com/2024/08/24/truth-or-satire-a-hard-look-at-merle-haggards-1969-hit-okie-from-muskogee/>.

<sup>42</sup> HAGGARD, *supra* note 40, at 00:08.

protests nationwide.<sup>43</sup> Ironically, towards the end of the war, the Department of Defense estimated that 60% of deployed personnel in Vietnam were using marijuana while 25% to 30% were using heroin.<sup>44</sup> Haggard also spites the anti-war protestors, explaining that “we don’t let our hair grow long and shaggy, like the hippies out in San Francisco do,”<sup>45</sup> and that in Muskogee, “leather boots are still in style for manly footwear, beads and Roman sandals won’t be seen.”<sup>46</sup>

The lyrics that followed, “[w]e don’t burn our draft cards down on Main Street, we like livin’ right, and bein’ free,”<sup>47</sup> refer to *United States v. O’Brien*.<sup>48</sup> In *O’Brien*, David O’Brien and three others burned their draft cards on the steps of the South Boston Courthouse in protest of the draft.<sup>49</sup> O’Brien was almost immediately attacked but an FBI agent ushered him into the courthouse.<sup>50</sup> Once inside, O’Brien admitted that he burned his registration card because of his beliefs, knowing that it violated federal law.<sup>51</sup> O’Brien’s act of protest violated a 1965 amendment to the Universal Military Training and Service Act of 1948, which prohibited the forgery, alteration, knowing destruction, and knowing mutilation of any Selective Service registration.<sup>52</sup>

O’Brien argued that the 1965 amendment was unconstitutional because his act constituted “symbolic speech” protected by the First Amendment<sup>53</sup> and because the 1965 amendment’s purpose was to suppress free speech.<sup>54</sup> The Supreme Court rejected both arguments. First, it upheld

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<sup>43</sup> Xandra McMahaon, *In ‘Grass Roots,’ A History of Marijuana in America*, COLO. PUB. RADIO (Apr. 9, 2018), <https://www.cpr.org/show-segment/in-grass-roots-a-history-of-marijuana-in-america/>.

<sup>44</sup> NORMAN M. CAMP, *US ARMY PSYCHIATRY IN THE VIETNAM WAR: NEW CHALLENGES IN EXTENDED COUNTERINSURGENCY WARFARE* 353 (Daneil E. Banks et al. eds., 1st ed. 2015).

<sup>45</sup> HAGGARD, *supra* note 34, at 00:50.

<sup>46</sup> *Id.* at 01:30.

<sup>47</sup> *Id.* at 00:23.

<sup>48</sup> *See generally* *United States v. O’Brien*, 391 U.S. 367(1968).

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.* at 369-70.

<sup>52</sup> *Id.* at 370.

<sup>53</sup> *Id.* at 376.

<sup>54</sup> *O’Brien*, 391 U.S. at 382-83.

the amendment's constitutionality, recognizing the government's substantial interest in maintaining the availability of Selective Service certificates.<sup>55</sup> The Court found that the amendment was narrowly tailored, prohibiting only noncommunicative conduct and that the noncommunicative act of O'Brien burning his draft card frustrated the government's interest.<sup>56</sup> Second, the Supreme Court dismissed O'Brien's claim that the amendment inherently suppressed speech, reasoning that the statute in question had no inevitable constitutional effect because the destruction of draft cards is not "inevitably or necessarily expressive."<sup>57</sup>

Overall, *Okie From Muskogee* echoes many of the conservative values held at the time. While Haggard's opinion on the song and the war has changed over time, he would explain in an interview how he supported the American soldiers who were fighting even after coming to the understanding that those protesting the war were valid.<sup>58</sup> Haggard, who served almost three years in San Quentin prison, understood what it meant to have your freedom taken away, so he appreciated the sacrifice that the conscripted young men made.<sup>59</sup>

#### IV. CONCLUSION

What this author finds so unique and remarkable about the First Amendment is that it allows for the preservation of viewpoints and opinions through codification in various forms of media. Today, while the Vietnam Veterans Memorial in Washington, D.C. honors the 58,200 American lives lost in a conflict that deeply divided the nation, the music of that time continues to serve as an accessible repository for these narratives and viewpoints.<sup>60</sup> Even for those who might

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<sup>55</sup> *O'Brien*, 391 U.S. at 382.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* at 385.

<sup>58</sup> See Peter Cooper, *Merle Haggard: As He Is (Part 3)*, AM. SONGWRITER (Nov. 2, 2018), <https://americansongwriter.com/merle-haggard-as-he-is-part-3/>.

<sup>59</sup> Gayle Thompson, *53 Years Ago: Merle Haggard's 'Okie From Muskogee' Album Hits No. 1*, THE BOOT (May 22, 2023), <https://theboot.com/merle-haggard-okie-from-muskogee-no-1/>.

<sup>60</sup> *Vietnam War: Causes, Facts & Impact*, *supra* note 3.

never visit the memorial, the protest songs remain an enduring reminder of how cultural expression documented and influenced political discourse during the war, embodying the essence of the First Amendment.