

1980s Music: It Was More Than Disco Boogie—There Was Just Something Subliminal About It

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Now, more than ever, music artists and record labels are fighting to keep their freedom of speech rights when it comes to their music, as they are constantly being sued for writing specific lyrics. Freedom of Speech is protected under the First Amendment and is defined as the liberty to freely say what one pleases, as well as the related right to hear what others say. This paper will examine the court's access to subliminal messages, the plaintiff's burden of proof, and the defendants' protections; additionally, an in-depth explanation of the court's ruling in a pivotal case will be provided. From this examination, one major question arises: can music lyrics contain subliminal messages that may potentially cause a person to commit suicide?

First Amendment Protection

The First Amendment is particularly supportive of the media; not only does it protect newspapers and magazines under Freedom of the Press, but it also shields music companies and artists under Freedom of Speech. This allows music artists to express their thoughts and feelings through music without question from anyone, including the court system. However, one of the main exceptions to Freedom of Speech with regard to music artists is a subliminal message.

Namely, the court feels that if subliminal messages are present within the lyrics, then the listener's privacy rights are violated. This means he or she is unable to consciously

comprehend or control the subliminal messages. In explaining the effects of subliminal messages, Timothy Moore, author of “The Case against Subliminal Manipulation,” writes, “The proposition that people can be influenced in important ways by verbal stimuli that are so weak that their presence is undetectable is an exceptional claim, for it would imply that present accounts of perception, memory, and motivation are fundamentally deficient” (302). Still, it is possible that words can be perceived and interpreted without the observer’s awareness. Under these circumstances, a person has the right to sue a record label or music artist. Yet, individuals who plan to sue record labels must prove that the music contains subliminal messages; this can be difficult and, in most cases, cannot be substantiated.

Cultural Analysis of Heavy Metal

Imagine the lead singer of a local band recreating the songs of legendary rock artist Ozzy Osbourne. He attempts to mimic every beat by screaming the emotional lyrics at the top of his lungs as he tries to get noticed and make a dollar. This musician does not comprehend that each listener can interpret every word he sings in a multitude of ways. Some teenager may only hear the words and think nothing of them, but others, who may be emotionally impressionable or unstable, may think differently. They are the ones who might take every word literally and may possibly endanger not only themselves, but other individuals in society, as well. As this example shows, heavy metal is everywhere, and it does not always have to be sung by a multi-million dollar recording artist; more importantly, anyone can be subjected to this type of music, and it is up to the individual to determine how he interprets it.

Metal, as this type of music is called, began in the 1960s and continues into today’s society, without the threat of stopping. Described as dark and chaotic, the lyrics discuss “troubles

such as depression, failed relationships, and social isolation. . . . Metal describes many problems but offers no solutions” (Stack, Gundlach, and Reeves 16). In summary, heavy metal music offers negative messages and, unfortunately, only leaves its listeners with melancholy feelings of emptiness and unanswered questions; this may even cause them to end their dilemma by committing suicide. As a result of this problem, society is attempting to save the lives of troubled and impressionable teenagers by having courts order heavy metal artists to place warning labels on their albums. The new labeling is an attempt to make the artists more responsible for their musical creations, as well as to alert concerned parents that adult content is contained in the lyrics. There are also groups, such as the Parents Music Resource Center, who are concerned with the youth of today. For example, in response to the vulgar and irrational music contained in heavy metal albums, the PMRC has protested by burning the music albums (Moore 312).

Ozzy Osbourne Music and Subliminal Messages

Since the 1970s, Ozzy Osbourne and his band have been writing and recording music that has been portrayed by many as harmful, aggressive, crude, and, most importantly, subliminal. These subliminal messages often are defined as “not audible[,] while a preconscious suggestion can be heard though not necessarily understood” (Waller). Although Osbourne’s lyrics encourage drug and alcohol use and suggest suicide to its listeners of all ages, their main effect is seen on his adolescent listening audience. In response, since the early 1980s, there has been a constant flow of lawsuits filed by parents of teenagers who listened to Osbourne’s records and then either broke the law or committed suicide. In nearly every case, the plaintiffs lost because they were unable to substantiate their claim that the music to which their children listened contained subliminal messages and caused them to display negative actions. Nevertheless, the

authors of “The Heavy Metal Subculture and Suicide” believe that “[h]eavy metal lyrics allegedly promote suicide through suggestion and imitation and has been the subject of widely publicized lawsuits” (Stack, Gundlach, and Reeves 20). While this does not mean that every person who listens to heavy metal will commit suicide, it does make it more likely that a parent will attempt to sue a record label or recording artist due to his child’s actions after listening this specific type of music. Heavy metal music appears to have the most negative impression on today’s youth, followed closely by rap music. For this reason, the First Amendment protects record artists, unless they subject their listeners to subliminal messages, in which case they can be sued. The only way recording artists remain protected is if subliminal messages are not found.

Waller v. Ozzy Osbourne

On May 3, 1986, Michael Waller committed suicide. Nearly two years later, his parents filed a complaint, the case was sent to trial, and the final ruling was made on May 6, 1991, in Atlanta, Georgia. Waller’s parents argued the reason for the death of their son was due to Michael listening to Ozzy Osbourne’s music. They believed Osbourne’s album, “Blizzard of Oz,” contained “audible and perceptual lyrics that directed Michael Waller to take his own life” (*Waller*). To support this claim, Victoria Evans, a computer science lecturer, tried to find subliminal messages in the song titled “Suicide Solution” from Osbourne’s album. In this experiment, she copied the song, placed it into a new file, and slowed the music down. She stated the only words she heard were the actual lyrics, which suggested to the listener that he commit suicide. She also concluded there were no actual subliminal messages played throughout the music (*Waller*).

The defendants, including Osbourne, CBS, Inc., and CBS RECORDS, Inc., all motioned for the court to dismiss the complaint because the plaintiff could not show that subliminal messages were present throughout the music. Furthermore, they argued the plaintiff was unable to prove that Osbourne's music was the direct reason for the death of their son. In fact, their legal brief mentioned that Michael Waller did not even listen to the CD before he committed suicide. Vincent Lobello, a Slidell attorney, recently stated in an interview, "The teenager most likely had a predisposition to violence and it is highly unlikely that there were subliminal messages in the music, but that the lyrics in the song 'Suicide Solution' could be influential to any troubled teenager" (Lobello). He supports the judge's ruling.

As may be surmised, the court ruled in favor of the defendants because the plaintiff, Waller, "failed to present any evidence from which a reasonable fact finder could even infer that a subliminal message existed within the song 'Suicide Solution' on the Album 'Blizzard of Oz'" (Waller). Because of *Waller v. Ozy Osbourne*, parents who have lost a child to suicide cannot sue the artists due to particular lyrics unless they can prove the music contained subliminal messages. And, there must be substantial evidence to show the causal connection between these messages and the suicide.

Experimentation and Presenting Evidence

Throughout the years, experiments and studies have been performed to gain a better understanding of subliminal messages and their effect, if any, on people. In the case of *Waller v. Ozy Osbourne*, Waller attempted to prove that the reason for the death of his son was merely due to the music to which his son Michael listened. To win his case, he had to prove that subliminal messages were present in Osbourne's song "Suicide Solution." Waller hired two

expert witnesses, neither of whom had experience detecting subliminal messages, to testify. Each of them performed his or her version of an experiment to demonstrate that subliminal messages were present. But, because both lacked the special skills needed to properly conduct this experiment, they were unable to show the song contained subliminal messages.

Mr. Hall, the first expert, identified the song as having preconscious suggestions (*Waller*). In addition, Victoria Evans, the second expert, believed the possible subliminal messages she heard were in fact the actual lyrics to the song “Suicide Solution.” With only this evidence, the plaintiff was unable to prove that the music contained subliminal messages. However, Terry Watkins, author of “It’s Only Rock’n Roll...But It Kills” reveals, “The Institute for Bio-Acoustics Research, Inc. was hired to evaluate ‘Suicide Solution’ and they found subliminal lyrics that weren’t included in the copyright ‘lead sheet’ The subliminal lyrics are sung at one and one-half times the normal rate of speech and are not grasped by the first time listener” (3). As such, if the plaintiff had hired better expert witnesses, who were actually qualified in detecting subliminal messages in music, he may have successfully proven that Osbourne’s music caused his son to commit suicide.

Despite the plaintiff’s failure to prevail, the case *Waller v. Ozzy Osbourne* has led researchers to explore how violent lyrics are perceived by young adults; this helps experts to identify the adolescents’ specific actions after listening to the music. Also, a recent study was conducted consisting of over 500 college students who listened to both violent and nonviolent lyrics. The American Psychological Association, who performed this study, concluded, “Songs with violent lyrics increase aggression-related thoughts and emotions, and this affect is related directly to the violence in the lyrics” (“Violent Music Lyrics” 46). This demonstrates that violent music lyrics do not necessarily have to contain subliminal messages for individuals to harm

either themselves or others; they simply hear the music for its literal meaning, which causes them to either break the law or commit suicide and then blame the music artists for their wrongful doings.

Another study performed on undergraduate college students measured their preference for music types. The questionnaire consisted of inquiries concerning the type of music the students enjoyed listening to and any past suicidal thoughts they may have had. The conductors of the survey, David Lester and Melissa Whipple, concluded, "Past suicidal ideation was associated with liking alternative rock and heavy metal music more, whereas prior suicidal threats and attempts were not associated with music preference" (70). Although students who enjoy heavy metal music had suicidal thoughts in the past, this does not necessarily mean that the music to which teenagers listen is the key factor in their specific actions. Moreover, this particular study shows that heavy metal music can contain negative thoughts and emotions in the lyrics without including subliminal messages.

The plaintiffs in the case *Waller v. Ozzy Osbourne* were trying to use the lyrics in the song "Suicide Solution" as an excuse for their child's problems. Michael Waller was obviously emotionally unstable and was only hearing negative thoughts in the lyrics. As such, he should be held responsible for his own actions. The lyrics allegedly audible and perceptual during a twenty eight second interlude in the song "Suicide Solution" are as follows:

Ah know people,
You really know where it's at,
You got it,
why try, why try,
Get the gun and try it,

Shoot, shoot, shoot. (*Waller*)

As these lyrics reveal, there is nothing subliminal about the message depicted in the song because they are actually telling the listener to get the gun and shoot it. This is why Waller was unable to prove his case in court.

Court's Ruling Regarding Rule 56(c)

As noted, the evidence that the plaintiff presented to the court was not enough to prove that Ozzy Osbourne's music was the sole factor in the death of Michael Waller. Still, the case was not dismissed on the Summary Judgment level under Federal Rule 56(c) and was allowed to proceed to court; according to Rule 56(c), federal law "mandates the entry of summary judgment against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear burden of proof at trial" (*Waller*). Even though the plaintiff bore the burden of proving that Osbourne's lyrics contained subliminal messages, the court permitted the case to go to court because expert opinions would be needed for the plaintiff to make such a high showing of this necessary element. Specifically, subliminal messages can be hard to detect to the untrained ear, but given the proper equipment and knowledge, they can be shown. Because Waller was unable to prove subliminal messages were present, even with his two expert witnesses, the case was dismissed. Still, the *Waller* case does not mean that subliminal messages do not exist; they just were not found in Osbourne's song "Suicide Solution" in this matter. Lobello stated, "I agree with the judge's ruling because the plaintiff did not prove the case as well as he could have. Therefore, Ozzy Osbourne's lyrics are protected by the First Amendment" (Lobello). While the music industry can influence

anyone who has ears and eyes, in this case, the only person who was held responsible for his actions was Michael Waller, because the music artist is protected under Freedom of Speech.

When the First Amendment Does Not Apply

The majority of heavy metal artists seem to hide their words behind the First Amendment and its protection of Freedom of Speech. In some cases, though, when “the music is classified as obscene, defamatory, or that which presents fighting words, or incites imminent lawless activity,” for example, the First Amendment does not apply (*Waller*). While this does not take away music artists’ Freedom of Speech, it does censor their words so they do not encourage slander, harm another person, or provoke illegal actions. The lyrics in the song “Suicide Solution” did not include any of these noted tribulations, and, as a result, Osbourne’s music remains protected. Moreover, Lobello states, “I would allow my teenager daughters, if interested, to listen to Ozzy Osbourne’s music because his music does not compare to what today’s society is allowing to be played on the radio. Ozzy Osbourne’s music from the 1980’s is not as suggestive towards violence and crime as music artists tend to be in the 21st century” (Lobello).

Judge’s Ruling in Court Case Involving Suicide and Heavy Metal

On August 25, 1988, another case involving subliminal messages was filed. Teenager, Raymond Belknap, committed suicide after listening to Judas Priest’s album, “Stained Glass.” His friend James Vance attempted to commit suicide at the same time as Raymond; although he survived the gunshot, Vance slipped into a coma and died a few days later. Judas Priest, a popular heavy metal band in the 1980s known for its violent, angry lyrics, was subsequently

sued by Emitt J. R. Vance for the suicidal actions of his son. Vance believed his son only considered suicide after being subliminally subjected to Judas Priest's music. According to expert witnesses who analyzed the album, "both subliminal messages and back masking were found" (Vance). Also, the subliminal message "Do it" was heard at least six times. Plaintiff's attorney Kenneth McKenna argued, "They just literally obeyed the commands of the music, and the lyrics . . ." (Vance). The case was settled out of court. Since subliminal messages were present in the music, the First Amendment rights were revoked from the band. For this significant reason, the teenagers were not held responsible for their actions.

Conclusion

The media, particularly the music industry, are protected under the First Amendment. Although Freedom of Speech defends the verbal expressions of people and their opinions, the heavy metal bands mentioned exceeded the boundaries of free speech outlined in the First Amendment. Listeners were intentionally subjected to subliminal messages contained in music lyrics, which was an invasion of their privacy rights. This resulted in the listeners subsequently making harmful choices.

While both cases—*Waller v. Ozzy Osbourne* and *Vance v. Judas Priest*—address the same issues, the latter prevailed solely because the plaintiff had evidence to back up his allegations that the artist's lyrics contained subliminal messages. Research continues to be updated to substantiate and document evidence of subliminal messages and the influences it has on individuals. Music artists have not refrained from including subliminal messages in their lyrics. As such, it appears that, as long as there is music, there will be subliminal messages and ensuing court cases.

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