

THE DAILY RECORD

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Civil Liberties after 9/11:

What not to read



BY JANE YOON

Daily Record Columnist

More than half a century after its first publication in 1951, J.D. Salinger's *The Catcher in the Rye* is one of the most well-known modern novels and appears on many schools' curricula. It is also one of the most frequently challenged books to this day on grounds that it contains offensive language and depicts premarital sex, alcohol abuse and prostitution.

In the decade of President Bill Clinton, *Seinfeld* and *The Simpsons*, the American Library Association (ALA) documented more than 6,000 challenges to books taught or available in schools.

This past July, in *ACLU of FL, Inc., et al. v. Miami-Dade County Sch. Bd., et al.* (Case No. 06-Civ-21577, D.S.Fla, July 24, 2006), Judge Alan Gold held the school board violated the First Amendment in removing and banning *Vamos a Cuba*, a children's travel book. The picture book was removed after a parent who was a former political prisoner complained about its depiction of life under communist rule.

Notably, this occurred despite the recommendations of two review committees and the superintendent to keep the book.



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So, what of the Webster Central School District's recent removal of Alex Sanchez's *Rainbow Boys* from its high school summer reading list? The *Democrat and Chronicle* first reported that the book about gay teens was pulled from the list due to complaints about it from a number of parents. Subsequently, the paper reported that the basis for removal was its explicit sexual content, and not because it showcased gay lifestyles.

The only U.S. Supreme Court case dealing with the issue is *Bd. Of Educ., Island Trees Sch. Dist. v. Pico* (457 US 853 [1982]). In that case, then 17-year old Steven Pico and several classmates challenged the school board's unofficial removal of several controversial books from its library. The board did this after finding the titles on a published list of "objectionable" books, but bypassing the district's established policy requiring the creation of a committee to review any books complained of.

A closely divided Supreme Court held 5 to 4 that books could not be removed from a school library absent a compelling reason that the books were "educationally unsuitable" or "pervasively vulgar." However, Justice Brennan writing for the plurality was careful to limit the decision specifically to the removal of books from the library, and not the acquisition of books or their use in a school curriculum, recognizing that local school boards had broad discretion in those arenas.

In focusing the discussion on library books, Justice Brennan opined that books found therein were not necessarily required reading, and that it was this "optional" nature that bestowed the students with First Amendment rights to access this information. However, the decision left open the possibility that books could be removed if found to be inappropriate, and subsequent litigation has usually turned on subjective questions of whether the challenged text has educational merit or is "vulgar."

The situation in Webster differs from that in *Pico*, in that the book was removed from a list, not a library. The recommended reading list is comprised of approximately 200 fiction and nonfiction titles taken from the ALA Young Adult Books list; High/Low Handbook: Best Books and Web Sites for Reluctant Readers; What's New in Young Adult Literature; and district employees. Students are required to read only two books from the list.

The district defends its action, arguing that the book is still available in the library and is available to students who have parental permission.

Arguably, books on a reading list are just as optional as

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Continued ...

those sitting on a library shelf and removing one from the list and requiring parental permission to read it is tantamount to restricting its access. There is no direct or indirect requirement to read *Rainbow Boys*, and the list begins with a disclaimer that, "... Some books may contain mature subject matter. We encourage parents to have conversations with their child about book choices."

The situation might be different if a student were required to read two books and only given three or four titles to choose from; but there was no undue influence here to read *Rainbow Boys*. The books are listed alphabetically by author, with no other categorization.

Prior to its removal, the title was unobtrusively situated on page 18 of a 21-page document on the lower third of the page. The list covers the gamut of subject matter including

racial tensions, war and violent crime, yet this book was singled out as being inappropriate for students.

A friend who teaches English at a local high school said with the caveat that he was unfamiliar with the book:

"On the other hand, as I watch billions of dollars in advertising being spent photographing young scantily clad bodies in order to get kids to buy Cheetos, beer, and condoms, perhaps we should be deconstructing pornography in our English classes to prepare these kids for the Madison Avenue vultures. It amazes me that this is what a parent decided to complain about. If it was a parent. Any kid that has cable TV has been exposed to more sex, drugs, and violence than they can get in a book."

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