

Court: No Bible for kindergarten show-and-tell

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By: Maryclaire Dale, AP

PHILADELPHIA — A kindergartner's mother cannot read Scripture during show and tell, even if the Bible is the boy's favorite book, a U.S. appeals court said Monday in the latest challenge over religion in public schools.

The Marple Newtown School District in suburban Philadelphia told plaintiff Donna Kay Busch in October 2004 that she could not read the Bible passages during her son's "All About Me" program. The school did permit the boy to discuss a poster that included references to his church as well as his family, pet and best friend.

"Parents of public school kindergarten students may reasonably expect their children will not become captive audiences to an adult's reading of religious texts," Chief Judge Anthony J. Scirica of the 3rd U.S. Circuit Court of Appeals wrote in the split 2-1 opinion, which upheld a lower court decision.

Schools can more tightly control speech presented to younger students, who may not distinguish a parent from their teacher, the ruling said.

Busch argued that the class heard stories related to Passover, Christmas and other religious holidays, but the court concluded there was a "significant difference" between identifying such holidays and reading from Scripture.

Principal Thomas Cook of Culbertson Elementary School believed such a reading would "proselytize ... a specific religious point of view," the opinion stated.

Busch, who describes herself as an evangelical Christian, is contemplating an appeal, according to lawyer Jason Gosselin. He said he took the case pro bono after a request from The Rutherford Institute, which focuses on First Amendment and religious freedom issues. Busch had contacted the group.

Gosselin argued that the school districts can restrict content but must remain "viewpoint neutral" once they invite parents in to celebrate their child.

"What Donna Busch wanted to do was well within that restriction. She wanted to come in and share something that was special to her son, something that they did every day," Gosselin said.

A lawyer for the school district, Mark A. Sereni, declined immediate comment. But in its brief, the district said the case was more about the mother's interests and motives than her son's. A family baby sitter described the boy's favorite book that year as the children's book "Brown Bear, Brown Bear," the district said.

"This case is not at all about Wesley — it is all about Busch (and) Busch's (religious) mission," the brief said.

School officials have to make similar decisions nearly every day in public schools across Pennsylvania and the U.S., according to a lawyer for the Pennsylvania School Boards Association, which filed an amicus brief in the case.

"This particular situation may not come up every day, but some version of it comes up often," said Emily J. Leader, the association's deputy chief counsel.

She believes the ruling strikes a balance between a student's right to express religious beliefs, the need to maintain a church-state separation and the need for schools to control curriculum.

"It's probably not inherently harmful for children to hear a passage from the Bible, but it is going to be inherently harmful for kids to hear other things, something violent perhaps, that would be extremely disturbing to a 5-year-old," she said.

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