Violent Video Games Held to be Free Speech

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Extremely violent video games have become the dangerous obsession of a significant portion of our youth, and several towns and states have passed ordinances intended to prevent minors from buying or viewing them. But judicial supremacists are striking down these laws by claiming this extremely graphic violence deserves the same First Amendment protection as Shakespeare.

In March, a three-judge panel for the Eighth Circuit unanimously held that violent video games are entitled to as much protection as the Bible. This was the ruling of Entertainment Software Assn. v. Swanson, even though one of the video games, "Postal 2: Apocalypse Weekend," boasts it will enable the user "to hack your enemies to meaty bits!"

Judge Wollman, writing for the Court, observed that "great literature includes many themes and descriptions of violence. See, e.g., Judges 4:21 (NIV) ('But Jael, Heber's wife, picked up a tent peg and a hammer and went quietly to [Sisera] while

he lay fast asleep, exhausted. She drove the peg through his temple into the ground and he died.')." What Judge Wollman failed to add is that a literary description of violence in the Bible does not engage a teenager in role-playing or desensitize him to the harm.

Interactive Digital Software Assn. v. St. Louis County likewise held that violent video games are free speech because they contain "stories, imagery, age-old themes of literature, and messages, even an ideology, just as books and movies do." But so do some adult pornographic movies, and no one insists there is a First Amendment right to sell them to children.

That decision acknowledged a psychologist's expert testimony that violent video games frequently lead to aggressive behavior, yet inexplicably rejected it, noting instead that a high school principal who testified was unable to prove that violent video games cause psychological harm to teens who play them.

A similar supremacist decision by the Seventh Circuit, American Amusement Machine Assn. v. Kendrick, considered an ordinance that would have prevented arcade owners with five or more games deemed "harmful to minors" from allowing children to play the games without parental supervision. That Court struck down the ordinance, commenting that the violent arcade games in question were not proven to be similar to the standard video games that have been linked to violence, and therefore not directly proven to have harmful effects.

The decision compared violent video games to classic works of literature such as the Odyssey, The Divine Comedy, and War and Peace. There is a distinct difference between sympathizing with the committer of violence and being the committer of violence, but that difference was apparently lost on the court.

In a case involving a violent video game that shows teenagers how to kill policemen, federal district court Judge Robert S. Lasnik permanently enjoined Washington State from restricting the distribution of violent video games to

minors. In Video Software Dealers Assn. v. Maleng, he quoted the Interactive Digital Software decision in ruling that "guided by the First Amendment, we are obliged to recognize that they are as much entitled to the protection of free speech as the best of literature."

These decisions ignore the way violent video games encourage role playing, making the child the perpetrator of violence in a manner that no book or movie can. It does not require a leap in imagination to see the risk of immature players transferring violent role-playing to real life.

Legitimate free speech expresses violence in a rational context, rather than displaying it graphically to evoke an immediate emotional reaction. It is not a First Amendment right to cause panic on an airplane by shouting that someone has a bomb; nor is it legitimate free speech to evoke violent reactions in children through graphic video games.

A teenager who learns how to murder and mutilate human beings in video games is desensitized to commit heinous crimes against his neighbors. Nothing in the First Amendment should prevent regulations to stop this, supremacist judges to the contrary notwithstanding.