Courts Hit Parents With Triple Whammy

by Phyllis Schlafly Dec. 21, 2005

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Federal judges have just hit parents with a triple-whammy. Two appellate courts held that parents have no right to stop offensive, privacy-invading interrogation of their own children in public schools, and in a third case the Supreme Court indicated that it is not going to do anything to protect parents' rights concerning schools.

It has become painfully clear that many courts have adopted the notion that the "village" (i.e., in these cases, the schools) should raise children. Judges prefer to side with schools and against parents.

When a New Jersey mother was horrified to learn that her daughter and classmates had been asked how many times they tried to kill themselves, she filed suit to protect the rights of parents and pupils. She won on the first appeal to the Third Circuit in C.N. v. Ridgewood Board of Education, but the school was relentless in litigation to assert its primary authority and the court finally ruled in favor of the school.

At issue was a 156-question survey called "Profiles of Student Life: Attitudes and Behaviors," which probed students about their personal lives and activities. The survey included questions about sex, drugs, suicide, incriminating behavior, spirituality, tolerance, and other personal matters.

Questions 92-93 in this survey given to Ridgewood children demanded to know "how many times" they "had used cocaine" in their lives, or during the last 12 months, and the answer choices were 0, 1, 2, 3-5, 6-9, 10-19, 20-39, and 40+. This gave students the false impression that casual use of cocaine is common and acceptable.

Misleading questions can have a powerful effect. Our legal system recognizes this by providing dozens of reasons for lawyers to object to questions in court in order to protect their witnesses from having to answer improper questions.

Children lack the maturity to tell the difference between questions they should or should not answer. Children are trained in school that they must answer the teacher's questions or face discipline or a poor grade.

Ask an adult when he stopped beating his wife and expect to be told to get lost. Ask a child in the classroom how often he takes drugs or has sex, and the child will think he ought to answer.

But judges who routinely uphold lawyers' objections to improper questions in court think it is okay to ask offensive questions of children in school. In the Ridgewood decision, the court agreed with the parents that the students' participation in the survey may have been mandatory, and conceded that the leading questions could be suggestive to students, but nevertheless ruled that parents' and pupils' rights were not violated.

The Ninth Circuit went even further, marking the school door as the line where parents' rights end and the "village" takes over. In Fields v. Palmdale School District in November, the judges ruled that the right of parents "does not extend beyond the threshold of the school door."

Just last Term, the Supreme Court devoted time and energy to a silly lawsuit over the replacement of a male teacher as coach of a girls' basketball team. When a teacher has a complaint, the Supreme Court springs to attention; but when a parent has a complaint about indoctrination of her child, the Court doesn't even want to hear about it.

In the same 30 days as the Ridgewood and Palmdale cases, the U.S. Supreme Court refused to review another parental rights case in Crowley v. McKinney. The High Court is spending its time this Term on a slew of cases about prisoners' rights (even about the alleged right of prisoners to read pornographic magazines) rather than hear a single case about parents' rights to raise their children.

In Crowley v. McKinney, the Seventh Circuit ruled against the parent, saying that the school has a constitutional right of "the autonomy of educational institutions." The parent had appealed to the Supreme Court to recognize the "settled law" of Pierce v. Society of Sisters, which in 1925 recognized the constitutional right of parents to control the education of their own children.

Even though recognizing the Supreme Court's holding in Pierce that "Oregon's project of forcing all children to attend public schools implied a hostility to private education that had no footing in American traditions or educational policy," the Seventh Circuit ignored its application to the current case. Does forcing children to answer questions about sex, drugs and suicide have a "footing in American traditions"? Of course not.

It hasn't grabbed the attention of the Supreme Court that the Third, Seventh and Ninth Circuits have ignored the settled law of Pierce. You can bet the High Court would take a case that requires testing schoolchildren for use of illegal drugs, yet the Court refuses to face the issue of requiring schoolchildren to participate in a classroom survey that suggests doing drugs is normal behavior.

Teachers are not required to answer these intrusive questions, so why are our children? Evidently parents are the only ones who do not benefit from equal protection of the law.