Court Wraps Video Games in First Amendment

by Phyllis Schlafly July 8, 2011

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The U.S. Supreme Court got it wrong in Brown v. Entertainment Merchants Association. This wasn't a First Amendment case; it was a parents' rights case and only Justice Clarence Thomas understood that.

The issue was a California law that would prohibit the $60 billion-a-year video game industry from selling hideously violent games to children without parental consent. Numerous other states and cities had unsuccessfully passed similar laws against selling violent video games to children, and now these games are wrapped nationwide by this recent Supreme Court ruling in the embrace of the Constitution.

The California law did not prohibit the video game industry from producing and selling these realistically violent games, and didn't stop parents from buying or allowing their kids to buy them. The law said that merchants could not bypass parents and sell directly to children without parental approval.

As Justice Thomas explained in his eloquent dissent, it is "absurd" to suggest that the First Amendment's "freedom of speech"' includes a right to speak to minors without going through the minors' parents. His dissent gives us a history lesson showing that the First Amendment was written in a society that assumed parents had absolute authority over the upbringing of their children "including control over the books that children read."

The Court's majority couldn't see any difference between "The Divine Comedy" (assuming minors are capable of reading classic works of literature), or Grimm's Fairy Tales, and teaching kids to role-play criminal acts such as torture and murder acted out on the screen in vivid color. Justice Alito and Chief Justice Roberts pointed out that the Court's decision now allows the industry to sell minors "games" that show victims "dismembered, decapitated, disemboweled, set on fire, and chopped into little pieces. . . . Blood gushes, spatters, and pools."

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Justices Alito and Roberts also stated, "There are games in which a player can take on the identity and reenact the killings carried out by the perpetrators of the murders at Columbine High School and Virginia Tech. . . . There is a game in which players engage in 'ethnic cleansing' and can choose to gun down African-Americans, Latinos, or Jews."

There is a big difference between reading the printed page and role-playing criminal acts. Reading a book takes the words only as far as the reader's own imagination.

But video games blur the distinction between fantasy and reality, and train kids to be highly proficient murderers when they do go off the deep end. Brain research indicates that children's and teenagers' brains are still developing and may store violent images as real memories.

Mass murders committed by teenage boys or young adults are often left unexplained by the media. Many of these young killers were addicted to disturbingly violent video games, playing these violent games for hundreds of hours a year.

Virtually every school massacre can be traced to the young killers' addiction to violent video games. The video game industry reaps tens of billions of dollars in revenue and now even surpasses Hollywood in profits, revenues and influence.

It's obvious that this is not what George Washington and James Madison had in mind in guaranteeing free speech to Americans. The Court has stretched the First

Amendment beyond recognition to infringe on the rights of parents to protect their own children from exploitation.

This decision has left vulnerable the families whose parents lack the time or knowledge or resources to protect their own children from exploitation, and to safeguard them against an industry larger and more influential than Hollywood. This decision encourages a further coarsening and degradation of our culture.

Justice Thomas pointed out that the American people have always been able to pass laws to protect children and respect parental rights. Examples are laws restricting alcohol and pornography to minors.

Supremacist judges who think they can substitute their personal opinions for the Constitution and for duly enacted federal and state laws are a major part of our current culture war. It's overdue for the American people to recognize how the judiciary has grabbed power to decide culture issues that should be decided by the legislatures.

Five federal circuits have handed down decisions that reject parents' rights, upholding the court-created right of public schools to teach children whatever they want. These decisions involve teaching acceptance of homosexual behavior, Islamic ideology and practices, and evolution, and requiring schoolchildren to fill out questionnaires demanding answers to scores of nosy, leading questions about sex, illegal drugs, and suicide.

The ball is now back in the court of the American people. They should study the actions of supremacist judges and roll back their mischief by demanding that they rule in favor of the U.S. Constitution as it was written and not as the judges wish it had been written.