

Outline on Challenging Books

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This outline proposes a way to effectively challenge books by juxtaposing US Supreme Court rulings against the American Library Association's (ALA) claims that any book selected can never be removed.

The goal is to inform book challengers on how to handle the lies presented by the ALA and prepare book challengers for what promoters of these books are saying. They are twisting these rulings and words to mislead people.

The information in this document has been taken from discussions with and information provided by Dan Kleinman, attorney, and can be found at <https://safelibraries.blogspot.com/>. This information is being used with Dan's permission.

I. WHAT SUPPORTS US

A. *Board of Education, Island Trees School District v. PICO* by PICO 457 U.S. 853 (1982) <https://caselaw.findlaw.com/us-supreme-court/457/853.html>
(From Section 49 of this *PICO* case) found that:

1. “. . . pervasively vulgar books may be removed from school forthwith. The books in question are pervasively vulgar. That is the basis for the removals, not the ideas they contain that the removal of which *PICO* would not allow.” Dan Kleinman, Attorney, and owner of <https://safelibraries.blogspot.com/>

a) Dan Kleinman further explains that the above quote is backed from the case itself and from this [PEN America](#) (“PEN” is an acronym for Poets Essayists and Novelists, and they support ALA 100%) writing where it says, "In some cases, boards have argued that they can remove books immediately without any reconsideration process if they are deemed to be 'pervasively vulgar,' or 'educationally unsuitable,' invoking the exceptions laid out by Justice Brennan in *PICO*." Then PEN America goes on and says ignore *PICO* and keep the long, drawn-out processes in place, because we know better than SCOTUS:

(1) “But as emphasized in *PICO*, the question of whether the motivations of the school boards that remove these books are constitutionally permissible would be better elucidated if they adhered to rigorous process rather than *ad hoc* (concerned with a particular end or purpose), highly charged acts. In other words, irrespective of the stated reason for a ban by lawmakers, school board members, or

other school authorities—whether a book is labeled, for example, “obscene,” “pornographic,” “pervasively vulgar,” or “sexually explicit”—nothing in *PICO* or the guidance put forth by the National Coalition Against Censorship (NCAC) and the American Library Association (ALA) exempts these officials from conducting a rigorous review via established processes.”

(a) Dan Kleinman comments: “Note how it is a “rigorous process” to remove books but nearly zero to add them to the library in the first place. And librarians complain it would be a rigorous process if you made them evaluate each and every book. It always is a double standard.”

B. *Dicta* in the court case (in the legal opinion): [Note: *Dicta* in law refers to a comment, suggestion, or observation made by a judge in an opinion that is not necessary to resolve the case, and as such, it is not legally binding on other courts but may still be cited as persuasive authority in future litigation. Also referred to as *dictum* and *judicial dicta*. A dissenting opinion is also generally considered *obiter dictum* (an incidental statement)]

1. “On the other hand, respondents implicitly concede that an unconstitutional motivation would not be demonstrated if it were shown that petitioners had decided to remove the books at issue because those books were pervasively vulgar.”

2. If, for example, the District Court concludes after a trial that the books were removed for their vulgarity, there may be no appeal.

C. If a librarian claims “it’s not pervasive” you can use this further portion of the ruling:

1. “The plurality also tells us that a book may be removed from a school library if it is “pervasively vulgar.” But why must the vulgarity be “pervasive” to be offensive? Vulgarity might be concentrated in a single poem or a single chapter or a single page, yet still be inappropriate. Or a school board might reasonably conclude that even “random” vulgarity is inappropriate for teenage school students. A school board might also reasonably conclude that the school board’s retention of such books gives those volumes an implicit endorsement. *Cf. FCC v. Pacifica Foundation*, 438 U.S. 726 (1978)”

<https://caselaw.findlaw.com/us-supreme-court/457/853.html>

D. For further clarification, here are two commentaries on the *PICO* ruling. They include both the dissenting and concurring opinions.

1. First commentary: <https://reason.com/volokh/2022/08/09/removal-of-books-with-lascivious-content-from-school-libraries-likely-not-unconstitutional/>

a) **The final ruling, however, is this:** “The *PICO* plurality specifically pointed to two plainly proper reasons for removing books. It explained that school officials certainly may remove books based on the books' "educational suitability" or if the books are "pervasively vulgar." ... [T]he entire *PICO* Court was unanimous in its explicit conclusion that schools can remove books based on their vulgarity. See *Bethel Sch. Dist. No. 403 v. Fraser* (1986) (noting that, although the Court was "sharply divided" in *PICO*, all Members of the Court "acknowledged that [a] school board has the authority to remove books that are vulgar").”

2. Second commentary: <https://reason.com/volokh/2023/02/27/does-the-first-amendment-bar-public-schools-from-removing-school-library-books-based-on-their-viewpoints/>

E. *United States vs. American Library Association* 539 U.S. 194 (2003): <https://www.mtsu.edu/first-amendment/article/317/united-states-v-american-library-association>

1. "There are substantial Government interests at stake here: The interest in protecting young library users from material inappropriate for minors is legitimate, and even compelling, as all Members of the Court appear to agree."

a) It is quite obvious that you can keep inappropriate material from children because they are too young.

F. American Library Association (ALA) says the exact opposite:

1. Look at ALA's "Library Bill of Rights," which says any child can read anything they want.

a) ALA says, "V. A person's right to use a library should not be denied or abridged because of origin, age, background, or views." See the difference? By the way, the "V." is to give the appearance of legal legitimacy akin to the real Bill of Rights. So, almost literally, a court has ruled ALA's so-called Library Bill of Rights means nothing, except to ALA itself and its members." <https://safelibraries.blogspot.com/2019/08/library-bill-of-rights-means-nothing.html>

2. Any library who uses the Library Bill of Rights is going against the

a) *U.S. vs American Library Association* ruling,

- b) common sense, and
- c) community standards.

G. *Miller vs. California*, 413 U.S. 15 (1973). Obscenity case ruling. Book must be “obscene as a whole.” “Speech that is obscene and thus lacking First Amendment protection must be without serious literary, artistic, political, or scientific value. It also must appeal to the prurient interest in the view of an average person according to community standards, and it must describe sexual conduct or excretory functions in an offensive way.”

<https://supreme.justia.com/cases/federal/us/413/15/>

1. ALA keeps using the word “obscenity” to mislead book objectors. Obscenity case does not apply to schoolbooks; almost no schoolbook will be obscene; obscenity is very hard to prove – it must go before a judge to prove and that is not going to happen.
2. The phrase, ‘Consider the “book as a whole”’ is used by librarians to fool you.
3. When librarians say the book is not obscene because it is not “obscene as a whole,” we say that that comes from the *Miller vs. California* case. That case does not apply to schoolbooks. The more recent *PICO* case does, and neither “obscenity” nor “obscenity as a whole” is the issue there. Therefore, to say a book like *Gender Queer* is not "obscene as a whole" is irrelevant to it being perfectly legal to remove that book and others like it from school libraries.
4. The more recent case is the *PICO* case. The ruling shows that pervasively vulgar books may be removed immediately. Think of pervasively vulgar like a bad smell that pervades the whole house (ex: a skunk in the wall pervades the whole house). It is not like obscenity "as a whole," it merely needs to be pervasively vulgar. For example, the reference in *Gender Queer* to “kink.com” pervades the whole book, let alone the graphic images of boys having oral sex.

a) *Gender Queer* is not obscene as a whole as *California v. Miller* requires, and not even in the context of schoolbooks. But it is pervasively vulgar, as discussed in *PICO*, the very case directly addressing schoolbooks.

Also, if *Gender Queer* is not considered pervasively vulgar, then no book will ever be considered as such, and the whole *PICO* case just gets thrown out the window as if it never existed. That is what ALA wants. But that's not how one interprets SCOTUS cases, by tossing them out completely with wild interpretations that completely nullify the cases.

- b) Librarians want parents/citizens to think they (parents/citizens) are in the minority by citing an ALA poll showing most people oppose book bans in schools, concluding that those supporting "book bans" are a minority. The reality is the opposite.
- c) The ALA poll shows that most people oppose book bans. No kidding. But that is not the issue. The issue is explicit books in public schools. And two polls showed that most people oppose explicit books in public schools. A Harris Poll and a Rasmussen Poll (see details below).
- d) Therefore, the facts are that parents opposing explicit books in schools are in the vast majority. And the ALA librarians didn't report on those polls. Instead, they took their own poll and phrased in a way to elicit the exact opposite of the truth that most people oppose explicit books in schools.
- e) ALA is a deceptive organization. Every statement it makes is intentionally false and/or misleading. The American Library Association should not be granted any credence. This association created the group "Unite Against Book Bans," a group that is heavily supported by GLSEN, GLAAD, People for the United Way, the Human Rights Campaign, the American Federation of Teachers, and other left-wing organizations. The Library Association intentionally continues to use the race and homophobic argument because it works.

5. Promoters of these books are desperate to spread lies to ensure that children continue to see and read vulgarity. Ref: <https://www.massresistance.org/docs/gen4/22d/ALA-training-video-exposed/index.html>

H. **Harris Poll and Rasmussen Poll.**

- 1. Media naturally adopts the ALA spin that parents are homophobic censors who are a vast minority when the truth is the exactly the opposite, per a Harris Poll and a recent Rasmussen poll.
- 2. **Harris Poll:** The Harris Poll shows, "A majority of Americans say ... that books with explicit language should not be available to children in school libraries (62%)." "The most important information revealed by the poll was in response to the question, "Do you think that children should or should not be able to get the following books, or types of books, from school libraries?" On average, 62% percent opposed "books with explicit language." No other category rated higher. http://www.drjudithreisman.com/archives/2011/04/most_oppose_exp.html

3. **Rasmussen Poll:** “Voters overwhelmingly oppose sexually explicit books in public school libraries, and believe schools have an obligation to inform parents what their children are being taught. A new national telephone and online survey by Rasmussen Reports and the Capitol Resource Institute finds that 89% of Likely U.S. voters think it is important that public schools fully inform parents about what is being taught to their children in classrooms, including 70% who say it is Very Important.” Sept 20-21, 2022.

https://www.rasmussenreports.com/public_content/politics/partner_survey/s/voters_against_obscene_books_in_public_schools

4. The ALA, the National Coalition Against Censorship [NCAC], and the American Civil Liberties Union [ACLU] actively work to convince communities to ignore “community standards” so as to get communities to decide for themselves to allow their own public-school children access to explicit material in public school libraries.

5. The Harris Poll, on the other hand, shows the majority of people oppose explicit material in public school. That polling will enable communities to gauge what the community standards are, provide a solid basis for that support, then apply those standards even when the ALA / NCAC / ACLU say the opposite.

<https://safelibraries.blogspot.com/search?q=harris+poll>

6. The ALA and the National Coalition Against Censorship (NCAC), for example, award school librarians when they reflexively report to them and support allowing public school children access to explicit material. See, for example, "[School Media Specialist Passes Sexual Content Review to Students; Dee Venuto Says It Is Discrimination to Keep Children From Material Including Lengthy, Vivid Descriptions of a Ménage a Trois.](#)"

II. WHAT PROMOTERS OF THESE BOOKS ACTUALLY SAY (When you compare what they say and what they ultimately do, it is clear their words and actions do not coincide. At times their statements initially appear to agree with our positions. But future actions prove that is not true).

A. We need to prepare parents for what promoters of these books are saying. They are twisting these rulings and words to mislead you.

B. **The Library Bill of Rights** means nothing and goes against the *Board of Education v. PICO* and *U.S. v American Library Association*.

C. Here's what the United States District Court judge said about ALA's Library Bill of Rights in *Berry v. Yosemite Community College District*, Case No. 1:18-cv-00172-LJO-SAB. (E.D. Cal. Apr. 17, 2018):

1. “E. Library Bill of Rights: Plaintiff contends that Defendants violated Article III of the Code of Ethics of the Library Bill of Rights because they did not take the necessary legal steps before breaching her confidential library records and reporting them in the joint status report. However, the Code of Ethics of the Library Bill of Rights is not a federal statute. But is promulgated by the American Library Association. The Library Bill of Rights is an unambiguous statement of principles that should govern the service of all libraries. While the documents represent the policies of the American Library Association, there is nothing to indicate that there would be a private cause of action based upon a violation.”

<https://safelibraries.blogspot.com/2019/08/library-bill-of-rights-means-nothing.html>

2. Also, see Interpretations of the Library Bill of Rights available at <http://www.ala.org/advocacy/intfreedom/librarybill/interpretations> (last visited April 16, 2018).

3. Librarians lie on a regular basis.

4. Censorship is not the issue. The issue is certain books.

5. The ALA’s “scheme” is any book that is selected can never be removed. That is not true and is a weak argument.

a) However, the author of *Lawn Boy*, Jonathan Evison stated that he never intended this book to be for children: From the Washington Post:

<https://www.washingtonpost.com/education/2022/12/22/lawn-boy-book-ban-pedophilia/> “Evison, the author, never meant for his book to be placed in school libraries, he told The Post in an interview. He was surprised when the American Library Association gave “Lawn Boy” an award in 2019 for its appeal to teens. Evison believes that some librarians who chose the novel did so because of the award — and he says that, if any recommended it to lower- or middle-schoolers, they probably confused it with the children’s book “[Lawn Boy](#),” by Gary Paulsen.

6. How do these books get into your library?

7. The librarians put them in there.

D. In Dan Kleinman’s analysis, former ALA Councilor admits the ALA hides truth about "Banned Books Week:"

1. "Banned Books Week" is a total propaganda effort by the ALA leadership to basically get people to think it is censorship to keep sexually inappropriate books away from children. A former ALA Councilor, displaying a refreshing willingness to say something the ALA leadership

would never admit, exposed the dirty little secret about this hoax that puts the 'shush' in librarians:

a) “It also highlights the thing we know about Banned Books Week that we don’t talk about much — the bulk of these books are challenged by parents for being age-inappropriate for children. While I think this is still a formidable thing for librarians to deal with, it’s totally different from people trying to block a book from being sold at all.” Reference: Banned Books Week is Next Week, by former ALA Councilor Jessamyn West:
<https://www.librarian.net/stax/1858/banned-books-week-is-next-week/>

E. Creator of Banned Books Week, Judith Krug, an ACLU member herself said: “If a book doesn’t meet a school selection policy, get it out of there.”
<https://safelibraries.blogspot.com/2019/08/library-bill-of-rights-means-nothing.html>

1. Judith Krug: “On rare occasion, we have situations where a piece of material is not what it appears to be on the surface and the material is totally inappropriate for a school library. In that case, yes, it is appropriate to remove materials. If it doesn't fit your material selection policy, get it out of there.”

2. Also note: The ALA never mentions this comment by Judith Krug because it hurts their cause. (Note: Judith Krug is now dead.)

3. As an aside: Judith Krug also said that she “could not identify child pornography when she sees it.” She also said, “if you don’t let your children read Playboy, you don’t really care about them thinking and growing up.” <https://safelibraries.blogspot.com/2019/08/library-bill-of-rights-means-nothing.html>

F. See [PEN America](#) decry "highly charged acts" like immediately removing books from schools? Well, Dorcus Hand did that, immediately removed a book from her school, and not only was it not "highly charged," but it was done immediately and without any fanfare at all. None. Zero. She just determined it was inappropriate and poof, it was gone.

G. And who is Dorcus Hand? She is on the board of ALA's Freedom to Read Foundation and of the Texas Library Association (TLA) executive board member. She trained Texas librarians to evade FOIA laws by using personal emails just to keep parents in the dark about how school librarians were sexualizing children. (ALA gives this training too, to librarians across America.) See here: <https://safelibraries.blogspot.com/2022/12/school-librarians-train-to-violate-foia.html>.

H. Dorcus Hand spills the beans:

1. In this [interview](#), September 12, 2022, Part 1 and Part 2, Dorcas doesn't realize it, but she details how to defeat parents and governmental efforts to keep children from accessing graphic child porn. She also doesn't realize she has revealed just how fake, phony, and fraudulent are ALA's Banned Books Week, its new Unite Against Book Bans, and its vaunted "Library Bill of Rights." (Note: the following commentary was provided by Dan Kleinman of <https://safelibraries.blogspot.com/>.)

2. She admits, explicitly or implicitly that:

a) school librarians do not read all the books to judge for appropriateness, and

b) they do indeed find books are inappropriate for school children, and

c) they may remove them from classrooms immediately, without any need to follow the ALA's materials reconsideration policies that are designed to prevent the removal of books, and

d) ALA's so-called "Library Bill of Rights" that makes it age discrimination to keep any child from reading any book is a direct violation of common sense, which Dorcas Hand apparently has, and

e) people who challenge books are not censors. She herself removed "Heaven Looks a Lot Like the Mall," by Wendy Mass after she finally read it, proving points 1 to 4 above.

I. Beginning with "Banned Books Week 2022, Part I, listen to the following portions marked here." Time mark 15:14, she said, "I hadn't read the book."

1. "I had read some of the series but I hadn't read this one." [proving #1].

2. "I had to ask them for the book back and I read it, and they were right that this book did not belong in our collection." [proving #2],

3. "...it was for a much older audience." [proving #4],

4. "...and so I withdrew it" [proving #3] "and everyone that knew me knew that that wasn't my first thought."

5. "I was ready to, to defend the book but you can't defend a book if you don't read all of it. I read all of it and it didn't belong on our shelves. And, and so everyone was pretty surprised."

6. "So, what did I learn? Some challenges are just random." [proving #5]. [16:22]
 7. "And sometimes a book is not right for your collection and you just have to admit it and move on." [again proving #5]."
 8. The interviewer then agreed with her, [17:07] "you called it and, um, owned it." [again proving #5]."
 9. Given the above, the claim that school librarians carefully curate their libraries is evidently false.
 10. The claim that challenging books or removing them is censorship or book banning is also false, or else Dorcas Hand just admitted to being a book burner, and she's not.
 11. The claim that a single parent shouldn't get to decide what books other kids can read is also false since the book Dorcas Hand removed was based on the complaint of a single parent, and it's the school that removes the book, not the parent.
 12. Most importantly, the "Library Bill of Rights" that decries age discrimination is simply false since Dorcas Hand got that book out of the class immediately--and notice there was no need to use a materials reconsideration form.
 13. Jill Biden just said no book should be banned--it's the ALA message to "unite against book bans,"--but Dorcas Hand inadvertently illustrates that Jill Biden's statement and ALA's Banned Books Week efforts are simply false.
- J. Inappropriate books can be removed forthwith under *Board of Education v. PICO* and even according to ALA's creator of Banned Books Week, Judith Krug, who said, "If it doesn't fit your material selection policy, get it out of there."

III. Additional Resources for Confronting Library Boards

- A. [The Banned Books Hustle](#)
- B. [Parents Must Protect Children from Offensive Material in Books](#) by Erin Manning, MercatorNet, 18 November 2012.

** It is my hope that this information can be successfully used to remove pervasively vulgar books from libraries. However, from time to time, situations might arise that may require legal action to be successful.

