Ten Significant Court Decisions Regarding Evolution/Creationism

National Center for Science Education

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1. In 1968, in *Epperson v. Arkansas*, the United States Supreme Court invalidated an Arkansas statute that prohibited the teaching of evolution. The Court held the statute unconstitutional on the grounds that the First Amendment to the U.S. Constitution does not permit a state to require that teaching and learning must be tailored to the principles or prohibitions of any particular religious sect or doctrine (*Epperson v. Arkansas* (1968) 393 U.S. 97, 37 U.S. Law Week 4017, 89 S. Ct. 266, 21 L. Ed 228).

2. In 1981, in *Segraves v. State of California*, the court found that the California State Board of Education's Science Framework, as written and as qualified by its anti-dogmatism policy, gave sufficient accommodation to the views of Segraves, contrary to his contention that class discussion of evolution prohibited his and his children's free exercise of religion. The anti-dogmatism policy provided that class discussions of origins should emphasize that scientific explanations focus on "how", not "ultimate cause", and that any speculative statements concerning origins, both in texts and in classes, should be presented conditionally, not dogmatically. The court's ruling also directed the Board of Education to disseminate the policy, which in 1989 was expanded to cover all areas of science, not just those concerning evolution. (*Segraves v. California* (1981) Sacramento Superior Court #278978).

3. In 1982, in *McLean v. Arkansas Board of Education*, a federal court held that a "balanced treatment" statute violated the Establishment Clause of the U.S. Constitution. The Arkansas statute required public schools to give balanced treatment to "creation-science" and "evolution-science". In a decision that gave a detailed definition of the term "science", the court declared that "creation science" is not in fact a science. The court also found that the statute did not have a secular purpose, noting that the statute used language peculiar to creationist literature. The theory of evolution does not presuppose either the absence or the presence of a creator (*McLean v. Arkansas Board of Education* (1982) 529 F. Supp. 1255, 50 U.S. Law Week 2412).

4. In 1987, in *Edwards v. Aguillard*, the U.S. Supreme Court held unconstitutional Louisiana's "Creationism Act". This statute prohibited the teaching of evolution in public schools, except when it was accompanied by instruction in "creation science". The Court found that, by advancing the religious belief that a supernatural being created humankind, which is embraced by the term creation science, the act impermissibly endorses religion. In addition, the Court found that the provision of a comprehensive science education is undermined when it is forbidden to teach evolution except when creation science is also taught (*Edwards v. Aguillard* (1987) 482 U.S. 578).

5. In 1990, in *Webster v. New Lenox School District*, the Seventh Circuit Court of Appeals found that a school district may prohibit a teacher from teaching creation science in fulfilling its responsibility to ensure that the First Amendment's establishment clause is not violated and that religious beliefs are not injected into the public school curriculum. The court upheld a district court finding that the school district had not violated Webster's free speech rights when it prohibited him from teaching "creation science", since it is a form of religious advocacy (*Webster v. New Lenox School District #122*, 917 F. 2d 1004).

6. In 1994, in *Peloza v. Capistrano School District*, the Ninth Circuit Court of Appeals upheld a district court finding that a teacher's First Amendment right to free exercise of religion is not violated by a school district's requirement that evolution be taught in biology classes. Rejecting plaintiff Peloza's definition of a "religion" of "evolutionism", the Court found that the district had simply and appropriately required a science teacher to teach a scientific theory in biology class (*John E. Peloza v. Capistrano Unified School District*, (1994) 37 F. 3rd 517).

7. In 1997, in *Freiler v. Tangipahoa Parish Board of Education*, the United States District Court for the Eastern District of Louisiana rejected a policy requiring teachers to read aloud a disclaimer whenever they taught about evolution, ostensibly to promote "critical thinking". Noting that the policy singled out the theory of evolution for attention, that the only "concept" from which students were not to be "dissuaded" was "the Biblical concept of Creation", and that students were already encouraged to engage in critical thinking, the Court wrote that, "In mandating this disclaimer, the School Board is endorsing religion by disclaiming the teaching of evolution in such a manner as to convey the message that evolution is a religious viewpoint that runs counter to ... other religious views". Besides addressing disclaimer policies, the decision is noteworthy for recognizing that curriculum proposals for "intelligent design" are equivalent to proposals for teaching "creation science" (*Freiler v Tangipahoa Board of Education*, No. 94-3577 (E.D. La. Aug. 8, 1997). On August 13, 1999, the Fifth Circuit Court of Appeals affirmed the decision; on June 19, 2000, the Supreme Court declined to hear the School Board's appeal, thus letting the lower court's decision stand.

8. In 2000, Minnesota State District Court Judge Bernard E. Borene dismissed the case of *Rodney LeVake v Independent School District 656, et al.* (Order Granting Defendants' Motion for Summary Judgment and Memorandum, Court File Nr. CX-99-793, District Court for the Third Judicial District of the State of Minnesota [2000]). High school biology teacher LeVake had argued for his right to teach "evidence both for and against the theory" of evolution. The school district considered the content of what he was teaching and concluded that it did not match the curriculum, which required the teaching of evolution. Given the large amount of case law requiring a teacher to teach the employing district's curriculum, the judge declared that LeVake did not have a free speech right to override the curriculum, nor was the district guilty of religious discrimination.

9. In January 2005, in *Selman et al. v. Cobb County School District et al.*, U.S. District Judge Clarence Cooper ruled that an evolution warning label required in Cobb County textbooks violated the Establishment Clause of the First Amendment (*Selman et al. v. Cobb County School District and Cobb County Board of Education* 390 F. Supp. 2d 1286, 1313 [N.D. Ga. 2005]). The disclaimer stickers stated, "*This textbook contains material on evolution. Evolution is a theory, not a fact, regarding the origin of living things. This material should be approached with an open mind, studied carefully, and critically considered*." After the district court's decision, the stickers were removed from Cobb's textbooks. The school district, however, appealed to the 11th Circuit Court of Appeals and in May 2006 the Appeals Court remanded the case to the district court for clarification of the evidentiary record. On December 19, 2006, the lawsuit reached a settlement; the Cobb County School District agreed not to disclaim or denigrate evolution either orally or in written form.

10. On December 20, 2005, in *Kitzmiller et al. v. Dover*, U.S. District Court Judge John E. Jones III ordered the Dover Area School Board to refrain from maintaining an Intelligent Design Policy in any school within the Dover Area School District. The ID policy included a statement in the science curriculum that "students will be made aware of gaps/problems in Darwin's Theory and other theories of evolution including, but not limited to, intelligent design." Teachers were also required to announce to their biology classes that "Intelligent Design is an explanation of the origin of life that differs from Darwin's view. The reference book *Of Pandas and People* is available for students to see if they would like to explore this view in an effort to gain an understanding of what Intelligent Design actually involves. As is true with any theory, students are encouraged to keep an open mind". In his 139-page ruling, Judge Jones wrote it was "abundantly clear that the Board's ID Policy violates the Establishment Clause". Furthermore, Judge Jones ruled that "ID cannot uncouple itself from its creationist, and thus religious, antecedents". In reference to whether Intelligent Design is science Judge Jones wrote ID "is not science and cannot be adjudged a valid, accepted scientific theory as it has failed to publish in peer-reviewed journals, engage in research and testing, and gain acceptance in the scientific community". This was the first challenge to the constitutionality of teaching "intelligent design" in the public school science classroom. (*Tammy Kitzmiller, et al. v. Dover Area School District, et al.*, Case No. 04cv2688)

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