

STATE BOARD OF EDUCATION

STATE OF GEORGIA

LAURA MALLORY,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2006-84
	:	
GWINNETT COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

Laura Mallory, a parent in Gwinnett County, (Appellant) has appealed a decision by the Gwinnett County Board of Education (Local Board) to keep the “Harry Potter” books, written by J. K. Rowling, in the media centers of the Gwinnett County Schools.¹ Appellant claims that the books promote the Wicca religion and use of them by the Local Board violates the First Amendment of the United States Constitution. The Local Board’s decision is sustained.

Appellant is the parent of three children who attend one of the Local Board’s elementary schools, Magill Elementary. Appellant, in three different complaints, challenged the inclusion of four books by J. K. Rowling within the Magill Elementary media center: *Harry Potter and the Sorcerer’s Stone*, *Harry Potter and the Chamber of Secrets*, *Harry Potter and the Prisoner of Azkaban*, and *Harry Potter and the Goblet of Fire*. In each of the complaints, Appellant alleged that the books contained evil themes, witchcraft, demonic activity, murder, and blood sacrifices and were inappropriate for young children. Appellant demanded the removal of the books from the media center and the classrooms.

Each school within the school district has a School Media Committee, composed of administrators, teachers, and community representatives. The purpose of the School Media Committee is to review media materials and challenges to instructional resources. In three different hearings, the School Media Committee for Magill Elementary decided not to remove the books from the media center. Appellant appealed these decisions to the system level where, in two different hearings, the Media Committee decisions were upheld. Appellant then filed an appeal to the Local Board.

¹ The books in issue are (1) *Harry Potter and the Sorcerer’s Stone*; (2) *Harry Potter and the Chamber of Secrets*; (3) *Harry Potter and the Prisoner of Azkaban*; (4) *Harry Potter and the Goblet of Fire*; (5) *Harry Potter and the Half-Blood Prince*, and (6) *Harry Potter and the Order of the Phoenix*.

At the Local Board level, Appellant expanded her complaint to include two additional books written by J. K. Rowling, *Harry Potter and the Half-Blood Prince*, and *Harry Potter and the Order of the Phoenix*. Appellant demanded the removal of the books from all media centers in the county. The Local Board appointed a hearing officer to conduct a public hearing to consider Appellant's contentions. On April 20, 2006, the hearing officer conducted a hearing. The hearing officer gave Appellant fifteen minutes to present an argument for removal of the books. Appellant essentially made two arguments. First, she argued that the *Harry Potter* books contained descriptions of murders, witchcraft, disrespect for authority, lying, and intolerance, in a favorable light when such actions do not reflect socially acceptable values and are too easily influencing on small children. Appellant's second argument was that the *Harry Potter* books promote the Wicca religion to the students contrary to the First Amendment to the Constitution of the United States. In support of her arguments, Appellant presented excerpts from articles she had obtained from the Internet. One witness testified that as a teenager she became involved in witchcraft after she read the *Harry Potter* books. A marriage and family therapist recounted that witchcraft and paganism, which she claimed the *Harry Potter* books promote, instilled a fear response in children. The school system representative argued that the *Harry Potter* books contained positive themes regarding "good versus evil, overcoming adversity, loyalty, friendship, and courage ..." and caused an increased interest for reading among children. The representative testified that the *Harry Potter* books had circulated 39,575 times during the preceding two years. A parent testified that, "These are the kinds of books that make children love to read. They have adventure, excitement, emotion, imagination, and they keep you reading day and night until you finish." A reading specialist testified that when she began using the book *Harry Potter and the Sorcerer's Stone*, her students began to take an interest in reading to the point that they did not want to stop at the end of each class. Neither party attempted to introduce any evidence concerning the tenets of Wicca.

The hearing officer recommended against removing the books from the media centers. The hearing officer found that the *Harry Potter* books promote reading and the author's use of wizards and witches does not promote or encourage the religion of Wicca. The hearing officer further found that the books were books of fantasy that any child capable of reading would understand them as fantasy. The Local Board adopted the hearing officer's recommendation. Appellant then filed an appeal to the State Board of Education.

Appellant argues that the entire *Harry Potter* series of books is based upon the Wicca religion and the inclusion of the books in the media centers constitutes state-sponsored advocacy of a religion, which is prohibited by the United States Constitution, as interpreted by the United States Supreme Court. The Local Board contends that the removal of the books from the media centers would violate the United States Supreme Court's decision in *Board of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U. S. 853, 102 S. Ct. 2799, 73 L. Ed.2d 435 (1982), where the Court held that a district court should not have granted summary judgment to a school board regarding its reasons for removing some books from its school libraries because there were genuine

issues of fact concerning the board's reasons. Justice Brennan wrote "[W]e hold that local school boards may not remove books from school library shelves simply because they dislike the ideas contained in those books and seek by their removal to 'prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.'" 457 U. S. at 872, 102 S. Ct. at 2810, 73 L. Ed.2d at 450 (plurality decision only).

Appellant's case suffers from the fact that she did not present any evidence to support her allegations; her evidence consisted of unverified hearsay that she obtained from the Internet. The Local Board could discount all such unverified documents. She did not introduce any evidence concerning the tenets of Wicca, nor did she point out specific examples of text within the books that constitute the promotion of Wicca. In effect then, her allegations remain merely bare allegations. Although there was testimony that claimed the books caused a child to engage in witchcraft and that the books instilled a fear response in children, there was no evidence to establish that the books caused the responses. As the hearing officer found, these were only "cause-and-effect assumptions" that failed to establish that the behavior would not have occurred but for the *Harry Potter* books. In the absence of any evidence, Appellant's allegations must fail.

Although Appellant may claim that the school system similarly failed to present any hard evidence to support its case, the school system did not need to present a case if Appellant failed to present one since she had the burden of proof as the challenging party. This burden is especially high since it requires a showing of gross abuse of discretion because the control and management of local school systems is vested in local boards of education, which have wide discretionary powers, and the courts will not interfere with such control and management unless there has been a showing that the local board has grossly abused its discretion or there has been a violation of law. *See*, GA. CONST. ART VIII, §V, PARA. II (2006); *Boney v. County Bd. of Educ. of Telfair County*, 203 Ga. 152, 45 S.E.2d 442 (1947). Appellant's failure to show that the Local Board has abused its discretion or that there has been a violation of law requires the Local Board's decision to be upheld despite the lack of any evidence by the school system.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board did not abuse its discretion in deciding not to remove the *Harry Potter* series of books from the media centers of its schools because Appellant failed to establish that the books promoted the Wicca religion. Accordingly, the Local Board's decision is SUSTAINED.

This _____ day of December 2006.

William Bradley Bryant
Vice Chairman for Appeals