Excising Religious Beliefs From a Child

A New Hampshire family-court judge has decreed in a July 13, 2009 ruling that a 10-year-old home-schooled child must now go to a government school in order to teach her to be less "rigid" and foster "tolerance" in her religious beliefs. The judge made this order despite finding that the child "is generally likable and well liked, social and interactive with her peers, academically promising, and intellectually at or superior to grade level."

The case in question, entitled *Kurowski and Voydatch*, was brought in the Family Division of the Judicial Court for Belknap County in Laconia, New Hampshire, and involved a complaint by a father to modify the custody arrangement of the child. The parents had divorced in 1999 when the child was an infant, and the mother had home-schooled the child since first grade. The court's opinion points out that the mother has met all state requirements for home-school families, and has done an exemplary job.

Judge Lucinda V. Sadler of that court ruled that the child was clearly well-adjusted, and had received a good education at home. However, she decided to wrest control of the child's religious upbringing from the parents, and make the child go a government school anyway.

Even though the judge ruled that the child would stay in the custody of the mother, she overruled the mother's belief that home schooling was better for her daughter. This is a contradiction in fact and in law, since the term "custody" means that the parent has the right and responsibility to direct the upbringing of the child. Only in cases of gross abuse or unfitness may a court interfere with those custodial decisions.

The rationale behind the judge's ruling was that the little girl needed to be exposed to different points of view, "in order to select, as a young adult, which of these systems will best suit her own needs." Our law has always presumed that children of that age learn their values and religious traditions from their parents. Yet this court wishes to usurp that traditional family function, and substitute the judge's own bias for that of the parents.

This case was adjudicated in a New Hampshire family court, so is not binding on families in other states. However, it gives much insight into the current thinking of family court judges, whose opinions tend to be quite uniform throughout the country. In other words, this intrusion into family sovereignty may be coming to a family court near you.

This case may forebode more than meets the eyes for all families, not just ones subject to family court jurisdiction because of divorce. Courts continually expand their jurisdiction into family matters, and have done so particularly in the area of education. Most state courts have ruled that education is a fundamental right, even though that premise is questionable from a traditional legal perspective.

It is reasonable to assume that courts may begin to use that premise to deny home-school approval to families whose faith is too “rigid” for the tender sensibilities of an “open-minded” judge. Then, a court would be in the position to determine which points of view a child must be exposed to, in lieu of the parent.

This New Hampshire Court sent a not-so-subtle signal that a 10-year-old child’s Christian faith is not one of the acceptable possibilities that she may choose, since it is narrow-minded and rigid, in the words of the court. This ruling could set the stage for a clash of constitutional dimensions between activist judges seeking to, in essence, establish a government religion, and those who seek to preserve the right of free expression of one’s religion as protected by the First Amendment to the U.S. Constitution.