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# Supreme Court upholds ruling mandating library porn filters

By Jan Crawford Greenburg  
Chicago Tribune (KRT)

WASHINGTON — In a key First Amendment case that pitted free speech rights of adults against the government's interest in protecting children, the Supreme Court upheld a federal law Monday that requires libraries accepting federal funds to install anti-pornography filtering software on computers used by the public.

The court, by a 6-3 vote, said the Children's Internet Protection Act was a reasonable response to concerns that children could see indecent material on computers in public libraries. But the case produced no majority opinion, and two justices wrote separately to emphasize that libraries should turn off the filtering system if adults ask.

Justice Anthony Kennedy, one of the court's most ardent protectors of free speech rights, said "there is little to this case" if a librarian will unblock filtered material "without significant delay."

"The interest in protecting young library users from material inappropriate for minors is legitimate," Kennedy wrote. "Given this interest, and the failure to show that the ability of adult library users to have access to the material is burdened in any significant degree, the statute is not unconstitutional on its face."

Justice Stephen Breyer, in another opinion, said that "given the comparatively small burden" the act imposes on adult library patrons, the important objectives of the law outweighed

any First Amendment concern.

Chief Justice William Rehnquist, in his plurality opinion joined by three other justices, would have gone further, holding that Congress had authority to impose the conditions on libraries that take federal money.

"Especially because public libraries have traditionally excluded pornographic material from their other collections, Congress could reasonably impose a parallel limitation on its Internet assistance programs," Rehnquist wrote, in an opinion joined by Justices Sandra Day O'Connor, Antonin Scalia and Clarence Thomas.

Supporters of the law hailed the decision. Jay Sekulow, chief counsel of the American Center for Law and Justice, which filed papers supporting the law, said the ruling was a "breakthrough in regulating Internet pornography."

Opponents had argued the law was too broad because the filtering software blocked thousands of legitimate Web sites, including those on political candidates and those providing medical information. They emphasized that Monday's decision was a narrow one.

"Justices Kennedy and Breyer joined the judgment because they believe adult patrons need only ask the librarian to 'please disable the filter' and need not provide any reason for the request," said Judith Krug, director of the American Library Association's Office for Intellectual Freedom. "In light of this, we expect libraries that decide they must accept filters to

inform their patrons how easily the filters can be turned off."

Paul Smith, a Washington lawyer, who represented the association and others challenging the law, said the ruling would infringe on adults' free speech rights because it would deter them from asking to have the filters turned off.

Moreover, as dissenting justices made clear, the law does not require libraries to turn filters off on request, despite the suggestions of Kennedy and Breyer. The law provides that the filters can be disabled only for "bona fide research or other lawful purposes."

Justice David Souter, in a dissent joined by Justice Ruth Bader Ginsburg, said unblocking Web sites for adult use could take days or may be unavailable in smaller branch libraries that are not as well staffed as main libraries. Souter said the filtering requirement, which limits access, was the same as if a library were "buying an encyclopedia and then cutting out pages with anything thought to be unsuitable for all adults."

As a result of the decision, all public libraries that accept federal money must install the software. But Smith and others said the opinions by Kennedy and Breyer also mean libraries must be careful to make it easy for adults to have the software disabled.

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# Bush, Dems claim court victory

By Bob Kemper  
Chicago Tribune (KRT)

WASHINGTON — Democrats hailed Monday's Supreme Court rulings on affirmative action as a political blow to President Bush and his hopes for re-election in 2004.

But with Bush declaring the rulings a victory and Americans' attention focused on the economy and security, political activists and analysts said any fallout for Bush would be much more limited and short-lived.

Bush's Justice Department had filed a brief in two affirmative action cases involving the University of Michigan, urging the Supreme Court to strike down the school's race-conscious admissions policies, which the administration called "disguised quotas." The court Monday ruled that race can have a part to play in admissions.

Several of the nine Democratic presidential contenders vowed to challenge the president's position on the issue. Other Democrats jumped on the rulings as evidence that Bush is a captive of the Republican Party's right wing and out of step with mainstream America.

"It is unconscionable that the Bush administration would have moved to re-segregate the nation against its will," said Jesse Jackson, founder of the Rainbow/PUSH Coalition.

Added Senate Democratic leader Tom Daschle of South Dakota: "I hope the administration will now work with us to support programs that promote racial and ethnic diversity in education, the military, the workforce, and

throughout our society."

But Bush, in a strategy that has served him well throughout his political career, ignored his critics' charges and declared that the court rulings were actually a victory for his administration. He then flew to New York where he raised more than \$4 million for his re-election effort.

"I applaud the Supreme Court for recognizing the value of diversity on our nation's campuses," Bush said in a statement.

Some Republicans played down the political implications of Monday's rulings for Bush.

"This isn't a political issue for him," said Chad Colby, spokesman for the Republican National Committee. "This is an issue of fairness."

The chief fallout for Bush from Monday's decision is likely to be a renewed emphasis on the ideological makeup of the court, with several justices considered candidates for retirement this summer.

"One of the decisions was 5-4. It does not get any more in your face than this," said Debra DeShong, spokeswoman for the Democratic National Committee.

In addition to energizing traditional Democratic constituencies, including blacks, labor union members and abortion-rights supporters, the court's rulings upset conservatives — a critical voting bloc for Bush — who want to see affirmative action abolished. All of those factors would only intensify the political pressure on Bush when it comes time to pick a Supreme Court justice, Republicans and Democrats agree.

Kim Gandy, president of the liberal National Organization for Women, called the Michigan case "a brutal re-

minder of the court's delicate balance and what is at stake with the next resignation from the court."

And conservatives may grow more wary of Bush. They are already concerned that Bush is considering appointing his White House lawyer, Alberto Gonzales, who is believed to support affirmative action and abortion rights, both litmus test issues on the political right.

Bush tried to create a middle ground in the debate over affirmative action, as he has on other sensitive issues. He said he supports "affirmative access," which he defines as increasing access for minorities without using quotas.

Bush's declaration Monday that the Supreme Court's rulings actually validated his position, despite the administration's appeal to the court to strike down the admissions policies, enraged Democrats who have long been frustrated in their ability to cut into Bush's popular support.

The president said the court's rulings validated his call for "race-neutral approaches" in increasing minority enrollment, but Democrats pointed out that the court explicitly affirmed that race could be taken into account in such circumstances.

Norm Ornstein, a presidential scholar at the conservative American Enterprise Institute, said the boldness of Bush to declare victory even after he has suffered setbacks has served him well in the past, noting, "As long as he can fuff it up just enough, he's OK."

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