FLORIDA FREEDOM TO READ PROJECT

Key Takeaways from Judge Mendoza's Ruling

1. Students Have a Right to Receive Information

Judge Mendoza strongly reaffirmed that **students have First Amendment rights**, including **the right to access information**, not just to speak.

> "The right to receive information is protected by the First Amendment."
> – *Stanley v. Georgia*

> "The books remain harmlessly on the shelves except with respect to students who want to read them."

This means that just because a book is on the shelf doesn't mean anyone is forced to read it—and students have a constitutional right to choose to read it. Denying access without proving the materials are obscene is a First Amendment infringement.

2. Both the State and Local School Boards Are Responsible

The judge rejected the idea that only one group was to blame for removing books. He made it clear that **both local school boards and the state government share responsibility**.

> "Both sets of Defendants caused Plaintiffs' injuries."

The state writes the rules. The school boards are charged with the review. And the state can penalize school boards if they fail to adequately comply with the statute.

In other words, **this isn't just local control or just state overreach—it's a coordinated system that restricts access**. Persisting in denying access to non-obscene materials based on a law already deemed unconstitutional exposes both parties to further legal action.

3. Book Removals Are Not "Government Speech"

Florida argued that school libraries are like official government messaging—so they can control the message. But the court firmly disagreed.

> "The statutory provision at issue does not involve discretion of government employees in curating an appropriate collection of library books that are 'worth reading.'...the statute here mandates the removal of books that contain even a

> single reference to the prohibited subject matter, regardless of the holistic value of the book individually or as part of a larger collection."
>
> "The removal of library books without consideration of their overall value cannot be expressive activity amounting to government speech."

The judge explained that **removing books based on rigid rules (like one mention of a banned topic)** isn't the same as thoughtful, professional curation by educators.

> "Slapping the label of government speech on book removals only serves to stifle the disfavored viewpoints."

He also noted that many removals stem from **parent complaints**, not expert decisions, so the state can't just claim the speech as its own.

> "Moreover, many removals at issue here are the objecting parents' speech, not the government's."
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> "To be sure, parents have the right to 'direct the upbringing and education of children,' but the government cannot repackage their speech and pass it off as its own."

4. Librarians, Not Parents, Are the Legitimate Curators

Judge Mendoza gave weight to **the professional judgment of librarians**—who've historically been trusted to select books based on educational value.

> "Historically, librarians curate their collections based on their sound discretion—not based on decrees from on high."

This rebukes the idea that parents should dictate what all students can access. **Parents can guide their own kids, but not censor the entire library.**

5. Florida's Law Goes Beyond Constitutional Limits

Judge Mendoza upheld the use of the **Miller test** (used to define obscenity), including its "adjusted for minors" version. This means that **"harmful to minors" is a legal standard to protect minors from inappropriate material**—and Florida's HB 1069 law overreaches.

> "Everything that could be constitutionally censored because it constitutes obscenity already falls within the portion of the statute that bans content under section 847.012—i.e., content that is harmful to minors."

Florida's HB 1069 added vague, broad bans on any content that "describes sexual conduct" or could be labeled "pornographic," **even if it has educational, literary, or social value**.

> “The statute’s prohibition of material that ‘describes sexual conduct’ is overbroad and unconstitutional.”

Judge Mendoza named 23 removed titles as examples of books that are not obscene and currently facing unreasonable restrictions “in light of the purpose of school libraries.” So the law ends up banning **non-obscene, constitutionally protected books**.

What This Decision Means in Plain Terms:

- **Students have a constitutional right to read**—and the state can't block that just because someone doesn't like a book.
- **Book bans must be based on real legal standards** (like the Miller test and Florida’s current definition of “harmful to minors”), not vague and subjective ideas about what’s “inappropriate.”
- **Parents can guide their own children**, but they can't erase access for everyone.
- **Professional librarians are trusted to make decisions**, not politicians or political pressure groups.
- Florida’s HB 1069 law **crossed a constitutional line** by mandating removals of books that are not legally obscene.