



West Virginia

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November 20, 2019

Board of Directors of Upshur County Public Library
1150 Route 20 South Rd.
Buckhannon, WV 26201
upshur.info@clark.lib.wv.us
sent via email

Re: Library Board Meeting Pertaining to Status of Children’s Book “Prince & Knight”

To whom it may concern,

I am writing to you regarding a meeting scheduled to be held today by the Board of Directors of the Upshur County Public Library. It is the understanding of the American Civil Liberties Union of West Virginia that the Board at this meeting intends to determine whether or not the children’s book “Prince & Knight” should remain banned from the library or moved from the children’s section because it depicts a romantic relationship between two men.

ACLU-WV urges the Board to reverse the ban on “Prince & Knight.” It is well-established that the Constitution “protects the right to receive information and ideas.” *See, e.g., Stanley v. Georgia*, 394 U.S. 557, 564 (1969). Any restriction of access violates the First Amendment by placing an unconstitutional viewpoint-based stigma on library patrons and community members who wish to read the book.

The Board would be well-advised to review the decision by the United States Supreme Court in *Board of Education, Island Trees Union Free School District No. 26 v. Pico*, 457 U.S. 853 (1982). In *Pico*, the Court held that the First Amendment does not permit the government from removing books that are already on the library shelves based on the viewpoints that the books contain. *See also Mainstream Loudoun v. Bd. Of Trustees of Loudoun Cty. Library*, 2 F. Supp. 2d 783, 794 (E.D. Va. 1998) (noting that “[T]he First Amendment applies to, and limits, the discretion of a public library to place content-based restrictions on access to constitutionally protected materials within its collection.”). Further, a public library, “like other enterprises operated by the State, may not be run in such a manner as to ‘prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.’” *Id.* at 794-95 (quoting *Pico*, 457 U.S. at 876 (Blackmun, J., concurring)).

Targeting books like “Prince & Knight” is viewpoint discrimination under the First Amendment. In *Sund v. City of Wichita Falls*, 121 F. Supp. 2d 530, 549 (N.D. Tex. 2000) the district court tackled precisely the issue contemplated here. In *Sund*, the City of Wichita Falls passed a resolution that would require the public library to move two books about LGBTQ+ families from the children’s area of the library to the adult section. *Id.* at 533. The *Sund* court held that the decision to transfer the books in this manner violated library patrons’ rights under the First Amendment.

In doing so, the court also found that the removal of books could not be justified by a governmental interest in protecting minors.

Speech that is neither obscene as to youths nor subject to some other legitimate proscription cannot be suppressed solely to protect the young from ideas or images that a legislative body thinks unsuitable for them. Here, the Defendants have not made—and, indeed, could not possibly make—the suggestion that the targeted Books are ‘obscene as to children’ in the legal sense. There simply is no interest, let alone a compelling one, in restricting access to non-obscene, fully-protected library books solely on the basis of the majority's disagreement with their perceived message.

Sund, 121 F. Supp. 2d at 552.

Public libraries are invaluable resources in our local communities and they exist in part to provide individuals and families access to a diversity of ideas and information. Banning a book on the grounds that it includes LGBTQ+ content is not only antithetical to this mission, it is patently unconstitutional.

ACLU-WV urges the Board to make the right decision in reversing the ban on “Prince & Knight” and to respect the constitutional rights of Upshur County library patrons. ACLU-WV will continue to monitor this situation and consider next steps depending on the outcome of the meeting today. Please notify us of the Board’s decision by November 22, 2019.

If you have any questions or concerns, I can be reached lstark@acluwv.org.

Regards,



Loree Stark
Legal Director
American Civil Liberties Union of West Virginia