

The Kitzmiller Decision

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Revised 2007-05-28
Original 2006-01-04
4 pages

Background

Intelligent Design is described well by Wikipedia:

Intelligent design is the assertion that "certain features of the universe and of living things are best explained by an intelligent cause, not an undirected process such as natural selection." It is a modern form of the traditional teleological argument for the existence of God, modified to avoid specifying the nature or identity of the designer. Its primary proponents, all of whom are associated with the Discovery Institute, believe the designer to be the Abrahamic God. Intelligent design's advocates claim it is a scientific theory, and seek a fundamental redefinition of science, no longer limited to natural explanations, but accepting supernatural explanations as well.

In 2004 the Dover (Pennsylvania) Board of Education, against protests by teachers in the system, voted to require the following statement to be read in 9th grade biology classes:

The Pennsylvania Academic Standards require students to learn about Darwin's theory of evolution and eventually to take a standardized test of which evolution is a part.

Because Darwin's Theory is a theory, it is still being tested as new evidence is discovered. The Theory is not a fact. Gaps in the Theory exist for which there is no evidence. A theory is defined as a well-tested explanation that unifies a broad range of observations.

Intelligent design is an explanation of the origin of life that differs from Darwin's view. The reference book, *Of Pandas and People* is available for students to see if they would like to explore this view in an effort to gain an understanding of what intelligent design actually involves.

As is true with any theory, students are encouraged to keep an open mind. The school leaves the discussion of the origins of life to individual students and their families. As a standards-driven district, class instruction focuses upon preparing students to achieve proficiency on standards-based assessments.

Three school board members who opposed the action of the Dover Board of Education resigned in protest. The district's science teachers refused to read the statement, saying that they were barred by professional ethics from presenting false information.

Eleven parents of students filed suit against the school district. The case of *Tammy Kitzmiller, et al. v. Dover Area School District, et al.*, went to trial before Judge John E. Jones II in federal district court in 2005, and was decided on December 20, 2005, in favor of the plaintiffs (the parents of the students). The previous month, all eight school board members who had voted to require the statement either lost reelection or had decided not to seek reelection.

The decision to reverse the action of the school board was, predictably, condemned by religious conservatives across the country. I heard people at church complaining about it (and citing the case as a reason for home-schooling). Despite the general disgust with the court's decision in some quarters, the complainers were and are wrong. *Kitzmiller* was

correctly decided. I am confident that just about every federal judge in the country would have ruled the same way. Also, the ruling was not a surprise to legal or science experts, because the trial left little doubt about the matter.

The Ruling

In his ruling, Judge Jones held that the following items were true:

- 1) Intelligent Design is not science.
- 2) The statement on Intelligent Design (ID) to be read to the class egregiously misrepresented the scientific method and the state of scientific knowledge.
- 3) Based upon the previous two points, the statement had no valid secular purpose, and in fact was damaging to the education of the students.
- 4) The school board was religiously motivated when it required the statement to be read.
- 5) It follows from the above facts that the action of the school board was a state-sponsored attempt to establish religion in violation of the First Amendment.

Let us consider each of these points in turn. The following merely highlights the facts of the matter without attempting to prove them from scratch; the plaintiffs and the judge have already done that, so one may simply read the trial transcripts and the court decision for an elaboration.

Intelligent Design (ID) is not science

ID is an assertion, not a theory or a hypothesis. As the judge noted, even the ID supporters made numerous statements to the effect that the ground rules of science would need to be radically altered to make room for ID. At least one of the *defense* witnesses in the trial admitted that ID had achieved essentially no support in the scientific community. Many of the claims of ID proponents have been refuted by scientists (and yet the same claims continue to be made).

The statement misrepresented actual science

Of all theories, the statement singled out evolution as “a theory, not a fact.” In science, a theory is not something less than a fact—indeed, in the terminology of science, evolution is both a theory and a fact.

Evolution has been studied and tested and found to be astoundingly useful in explaining the world around us. Its level of acceptance is on par with that of General Relativity and other non-controversial theories. It is the bedrock of biology, ecology, paleontology, and numerous other fields. To point to this theory as “not a fact” and one which contains “gaps...for which there is no evidence” is to be intellectually inconsistent at best.

As a rule, scientists are very careful about the conclusions they reach. They are very skeptical and demand evidence. However, they are extremely creative about finding ways to obtain evidence for or against their theories. For the school board to ignore the mountain of meticulously-gathered evidence and carefully reasoned arguments regarding evolution, the work of millions of researchers spanning centuries, is to present a caricature of actual science to the students.

The statement was damaging to the education of the students

The fact that the statement was brief does nothing to mitigate the fact that it taught the students false information and quite literally damaged their education. The statement essentially told the students that the teachings of the scientific field are not trustworthy and that evolution is only taught because it is required. That is damaging. As noted by the judge, the statement could permanently lead students away from science.

The school board was religiously motivated

This was obvious from the court testimony, based on many of the of the board members' statements and actions. Not only were they religiously motivated, but they were completely ignorant about the subjects of ID and of evolution, they ignored the legal counsel that was given to them, and the judge declared that some of them had lied under oath.

The action of the school board violated the Constitution

The Constitution forbids the government from "respecting an establishment of religion." The courts have been clear that the government cannot promote nor discourage religion. Contrary to popular belief, the Constitution does not talk about God or say that this is a Christian nation (it mentions the word "Lord" when talking about what year it was, as was the normal practice of the time). The Constitution quite intentionally forbade the mingling of religious institutions with the political.

Consequently, if an agent of the government promotes religion, it does so in violation of the Constitution. The action of the school board served no secular purpose (and is actually contrary to the secular purpose of a school), but it does promote a particular religious purpose. The action of the court therefore protects the interests of people who do not want a religious view forced upon them by the government. The ruling is galling to many conservatives, but they might appreciate this protection more if they lived in, for example, Saudi Arabia.

An Analogy

In my church, a local congregation is lead by a Bishop. The Sunday School President coordinates the work of the various Sunday School teachers under the direction of the Bishop. As a thought experiment, suppose that you are a Sunday School teacher. One day the Sunday

School President decides that you and all of the other teachers need to read a statement to your class. The statement calls attention to an upcoming election and points out the “troubling ethical conduct” of one of the candidates.

You object, saying, “This is a religion class, not a political rally. I'm here to teach Sunday School. Besides, that candidate's ethics are just fine. I know him, and I know that the other guy has been spreading some propaganda.”

The Sunday School president replies, “Well, this is just a short statement. It just points out some things that are important to keep in mind.”

You say, “I don't care how short it is or how fair-minded you think it is. It's just plain wrong, and even the statement were correct, it wouldn't belong in Sunday School.” That, of course, is when you bring the Bishop into the dispute, and let him make the call. He would say it's against the rules, of course. It doesn't make the Sunday School President happy, but it lets you get on with teaching your class.

In our legal system, the judge is the one who makes the calls. This judge was absolutely correct, and he gave a 139 page decision explaining his reasoning. The ruling showed his care and attention, and would undoubtedly withstand an appeal.