



Save Ethnic Studies, Inc.

FOR IMMEDIATE RELEASE: Thursday, May 26, 2011

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MOTION FOR SUMMARY JUDGMENT ISSUED in HB 2281 ETHNIC STUDIES CASE

On May 25, attorney Richard M. Martinez filed a motion for summary judgment in the case against HB 2281. The motion, filed on behalf of the 13 litigants in the case (11 TUSD Mexican American Studies instructors and two TUSD students), makes the case that **the prohibitions outlined in HB 2281 are too vague and broad and violate the first amendment rights of teachers, schools and students. Since every provision of the law violates the constitution, the motion calls for the law to be overturned in its entirety.**

It is fundamentally argued that this law is designed to limit the material and ideas allowed in the classroom and thus restrict the first amendment rights of teachers to teach and students to learn.

The motion cites legal precedent and common sense examples, as well as the political atmosphere in which this law was crafted by former Arizona superintendent of public instruction (now attorney general) Tom Horne and the Arizona legislature, to make the case for striking HB 2281 down.

A full copy of the motion will be available soon at <http://saveethnicstudies.org/>

The motion addresses the law's four major provisions prohibiting instruction that:

- a) promotes the overthrow of the United States Government; b) promotes resentment toward a race or class of people; c) is designed primarily for people of a particular ethnic group and d) advocates ethnic solidarity instead of treatment of pupils as individuals.

In addressing the first part (promotes the overthrow of the United States Government), the motion uses the example of the battle of the Alamo between Texas insurgents and the Mexican army, asking as a teacher might, "Who are the rebels and who are the patriots? Did the insurgents instigate a war against a sovereign nation?" and more importantly, by raising such questions are teachers advocating the overthrow of the U.S. government?

The section of the motion cites the chilling effect that would have on teachers, forcing them to restrict classroom discussions to topics politically safe rather than offering topics for debate.

In part b (promotes resentment toward a race or class of people), the motion uses the example of a possible discussion of jihad and the attacks of September 11. Could this promote bitterness toward Muslims and therefore make the topic off limits for discussion? For that matter, might a discussion of the Apache raids in Arizona promote resentment toward Apaches?

In section c (is designed primarily for people of a particular ethnic group), the motion asks if the majority of students in an African American history class are African American, could the class be banned? Or for that matter, as is the case at many Tucson Unified School District schools where Latinos outnumber other ethnic groups, could any class that has a large number of Latino students be banned? Would a math class with mostly Latino students be banned?

In addressing section d of the law (advocates ethnic solidarity instead of treatment of pupils as individuals) the motion raises the question of whether a discussion of Black History Month or Hispanic Heritage Month would be in violation of the law. What about such topics as Juneteenth and Cinco de Mayo, or such groups as the NAACP, the American Indian Movement or the Ku Klux Klan? Might a teacher be in trouble for teaching about Martin Luther King or Malcolm X?

So much of American history would be simply off limits by the vague wording of this law, and clearly the rights of teachers to teach and students to learn is violated by this law in violation of the First Amendment to the Constitution of the United States.

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