

LIBRARIES, THE FREEDOM TO READ, AND THE COURTS



Leila Green Little, et al. v. Llano County, et al.

INTRODUCTION

It is a fundamental principle of the First Amendment that no government agency, including public libraries and public school libraries, may restrict or censor materials because of the topics addressed in the books or the viewpoint or ideas expressed by their authors. On May 23, 2025, the Fifth Circuit Court of Appeals issued an **en banc** decision in *Leila Green Little v. Llano County* which upended long-settled law protecting library users' freedom to read. On December 8, 2025 the Supreme Court denied plaintiffs' **petition for a writ of certiorari**.¹

WHY SHOULD YOU CARE ABOUT THE LEILA GREEN LITTLE V. LLANO COUNTY DECISION?

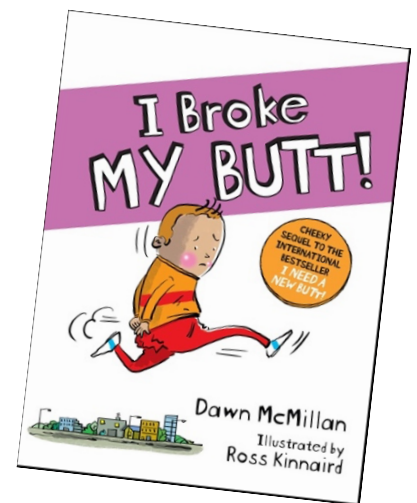
- As a result of these decisions, the Fifth Circuit ruling that there is no right to receive information in the public library stands and censorship remains. Library users in Texas, Mississippi, and Louisiana are no longer protected from politically motivated and viewpoint based book removal decisions in their public libraries.
- In November 2021, Llano County violated library users' First Amendment Rights when county officials ordered that several books, representing a diversity of views and ideas, be removed from the library shelves and catalog based on complaints that the books were inappropriate.
- After seven library users sued in federal district court to have those materials returned, the District Court agreed with the plaintiffs, citing precedent created by the Fifth Circuit Court of Appeals in *Campbell v. St. Tammany Parish School Board* and the United States Supreme Court in *Board of Education v. Pico*. The court held that the First Amendment does not allow libraries to remove books from school library shelves "simply because they dislike the ideas contained in these books." *Leila Green Little, et al. v. Llano County, et al.*, No. 1:22-cv-00424-RP, Slip Op. at 15 (W.D. Tex. Mar. 30, 2023).

EN BANC

A special procedure where all judges of a particular court hear a case.

PETITION FOR A WRIT OF CERTIORARI

A petition filed with the Supreme Court asking it to review the judgment of a lower court. The Court grants certiorari in a limited number of cases each year.



¹ The Freedom to Read Foundation (FTRF), joined by the Texas Library Association and the American Library Association, submitted amicus curiae briefs to the Fifth Circuit and the Supreme Court in this matter.



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Founded in 1969, the Freedom to Read Foundation (FTRF) is a non-profit legal and educational organization. FTRF protects and defends the First Amendment to the Constitution and supports the right of librarians to collect—and individuals to access—information.



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- A panel of three Fifth Circuit judges agreed, affirming that decision when Llano County appealed the decision.
- Despite these holdings, on May 23, 2025, the Fifth Circuit issued an en banc decision reversing that Fifth Circuit’s earlier ruling. The majority (10 out of 17 judges) overruled its earlier *Campbell* decision. It held that *Pico* “carries no precedential weight” because *Pico* was a **plurality decision**. In a first of its kind statement that directly conflicts with a ruling by the Eighth Circuit in *GLBT Youth in Iowa Schools Task Force v. Reynolds*, seven majority judges stated that the First Amendment does not apply to book removal decisions because public library “collection decisions are government speech.” This statement, however, did not receive a majority of votes and is not binding precedent even in the Fifth Circuit.
- Not all of the judges agreed with this decision. A seven judge **dissent** noted that the majority usurped the role of the Supreme Court by creating a new limit on the First Amendment and “holding that public library patrons may not challenge even politically motivated book removals.” *Leila Green Little v. Llano County*, No. 23-50224, Slip Op. at 21-22 (5th Cir. May 23, 2025) (Higginson, J. dissenting). It also noted that the First Amendment “right to receive information and the right to be free from officially prescribed orthodoxy . . . are endorsed across the Supreme Court’s spectrum of opinions in *Pico*.” Slip Op. at 11.
- Because the Supreme Court denied plaintiffs’ petition for a writ of certiorari on December 8, 2025, the en banc ruling of the Fifth Circuit Court of Appeals remains in effect.

PLURALITY DECISION

Occurs when a majority of the judges agree on the outcome of a case, but offer differing rationales supporting their decision.

DISSENT

An opinion that is written when one or more judges disagree with the majority decision in a case.

IS THE RIGHT TO READ ENDANGERED IN YOUR COMMUNITY?

- This is a decision in one circuit. It is not the law of the land.
- Although politically motivated censorship that happens in public libraries in Texas, Mississippi, and Louisiana will be harder to contest in courts in the Fifth Circuit, in all other states the right to receive information in libraries is still protected. Communities can also continue to urge their government officials to protect the right to receive information free of viewpoint discrimination in libraries in Texas, Mississippi, and Louisiana to provide patrons and students with access to a broad array of diverse materials.
- FTRF is continuing its work in other jurisdictions to ensure that the freedom to read will prevail. The chance for the Supreme Court to hear this issue is not lost forever.



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