

# Federal court issues sweeping judgment against teaching of intelligent design

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**By Robert Marus**

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HARRISBURG, Pa. (ABP) — A federal judge has ruled that, while "intelligent design" may itself be intelligent, it isn't science — and shouldn't be taught as science in the public schools.

The Dec. 20 decision by U.S. District Judge John Jones III is a broad — and strongly worded — defeat for advocates of intelligent design being taught in public-school science classrooms. It is the federal courts' first foray into the raging controversy over teaching the theory as an alternative to evolution.

Jones found unconstitutional the Dover, Pa., school district's practice of requiring teachers to preface a high-school biology course with a statement suggesting that evolutionary theory "is not a fact" and that intelligent design is a plausible alternative. ID theory posits that some life forms are

too complex to have arisen from naturalistic evolutionary processes without the aid of an unseen, super-intelligent designer.

The statement also directed students to an ID textbook, titled "Of Pandas and People," as a resource for those wanting to learn more about the theory.

In November, all eight members of the school board who favored the ID policy were ousted by voters and replaced with candidates who oppose the policy. As a result, the board is not expected to appeal the court ruling.

In a far-reaching and often-scathing opinion — weighing in at 139 pages — Judge Jones said, "the disclaimer singles out the theory of evolution for special treatment, misrepresents its status in the scientific community, causes students to doubt its validity without scientific justification, presents students with a religious alternative masquerading as a scientific theory, directs them to consult a creationist text as though it were a science resource, and instructs students to forego scientific inquiry in the public-school classroom and instead to seek out religious instruction elsewhere."

After reviewing an extensive trial record that includes weeks of testimony from some of the nation's foremost scientific and legal experts, Jones found that ID theory, as currently formulated, cannot be separated from its creation-science antecedents. The Supreme Court has already ruled that theories about the origins of species based on the creation accounts in the Christian and Jewish Scriptures cannot be taught in public-school science classes.

"The evidence at trial demonstrates that ID is nothing less than the progeny of creationism," Jones wrote. "ID uses the same, or exceedingly similar, arguments as were posited in support of creationism. One significant difference is that the words 'God,' 'creationism,' and 'Genesis' have been systematically purged from ID explanations, and replaced by an unnamed

'designer.'"

In particular, Jones noted how earlier versions of the "Of Pandas" text, published prior to a 1987 Supreme Court decision on creationism, used "creationism" where the book now inserts "intelligent design."

Jones also said ID theory, as presently formulated, is fundamentally not scientific because it deals with the supernatural.

"While supernatural explanations may be important and have merit, they are not part of science," he said. "ID is reliant upon forces acting outside of the natural world — forces that we cannot see, replicate, control or test — which have produced changes in this world. While we take no position on whether such forces exist, they are simply not testable by scientific means and therefore cannot qualify as part of the scientific process or as a scientific theory."

The decision is binding only in the central Pennsylvania district. However, the strong wording and breadth of the opinion will likely serve as warnings to school boards elsewhere in the country considering teaching intelligent design.

Jones heaped scorn on the actions of the Dover school-board members who voted to establish the policy in 2004, saying they clearly had religious aims, but then misrepresented them for legal reasons.

"Accordingly, we find that the secular purposes claimed by the board amount to a pretext for the board's real purpose," Jones wrote, "which was to promote religion in the public-school classroom, in violation of the establishment clause" of the First Amendment, which bars government endorsement of religion.

In particular, he cited members of the school board whose testimony he determined was not credible and, in some cases, amounted to outright

perjury.

"The citizens of the Dover area were poorly served by the members of the board who voted for the ID policy," Jones wrote. "It is ironic that several of these individuals, who so staunchly and proudly touted their religious convictions in public, would time and again lie to cover their tracks and disguise the real purpose behind the ID policy."

Intelligent design theory has gained national attention in recent years, with many religious conservatives pushing for it to be taught alongside traditional evolutionary theory in public schools. President Bush recently caused a stir when he endorsed teaching ID. However, the Dover case is the first major legal and scientific airing of the theory's appropriateness for science classes.

Jones, an appointee of President George W. Bush, gave a nod to the social controversy surrounding ID and launched a pre-emptive attack on social conservatives who might characterize his decision as judicial activism.

"Those who disagree with our holding will likely mark it as the product of an activist judge. If so, they will have erred, as this is manifestly not an activist court. Rather, this case came to us as the result of the activism of an ill-informed faction on a school board, aided by a national public interest law firm eager to find a constitutional test case on ID, who in combination drove the board to adopt an imprudent and ultimately unconstitutional policy," he wrote. "The students, parents, and teachers of the Dover Area School District deserved better than to be dragged into this legal maelstrom, with its resulting utter waste of monetary and personal resources."

But the lead lawyer for the school board said the judge's decision was "silly" and wouldn't put the controversy to rest.

"A thousand opinions by a court that a particular scientific theory is invalid

will not make that scientific theory invalid," said attorney Richard Thompson, according to the New York Times. "It is going to be up to the scientists who are going to continue to do research in their labs that will ultimately determine that."

Thompson is president and chief counsel of the Thomas More Law Center, a conservative Christian group.

Brent Walker, executive director of the Baptist Joint Committee for Religious Liberty, said Jones' decision was a "slam dunk" for those who support separation of church and state, because it rightly determined that "ID is just gussied-up creationism and cannot be taught in public-school science classes."

Walker also praised the decision for noting that many ID advocates set up a false dichotomy between God and evolution. "One can be religious and embrace the best of science at the same time," he said.

But an ID advocate said Judge Jones' reasoning was flawed, because if ID goes beyond testable scientific theory, so does a key component of Darwinian evolutionary theory.

"I would argue that intelligent design is not science, but neither is natural selection," said Hal Poe, a Christian studies professor at Baptist-affiliated Union University in Jackson, Tenn. Poe referred to the Darwinian theory of natural selection, which says that evolutionary change can be attributed to the survival and reproduction of species most fit for their environments.

"The only reason for teaching intelligent design is if you're teaching philosophy of science," Poe said, "but the only reason for teaching natural selection is also if you're teaching philosophy of science."

The opinion in *Kitzmiller v. Dover Area School District* was the result of a lawsuit filed on behalf of 11 Dover parents by attorneys from Americans

United for Separation of Church and State and the American Civil Liberties Union. The parents claimed the school board's policy violated the First Amendment and undermined their rights to instruct their children in religious matters.

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