

Court hears arguments on violent video games

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In this image released by Rockstar Games, a scene is shown from "Grand Theft Auto IV: The Lost and Damned," is shown. (AP Photo/Rockstar Games)

(AP) -- The Supreme Court on Tuesday expressed sympathy for a California law that aims to keep children from buying ultra-violent video games in which players maim, kill or sexually assault images of people. But several justices said the law faces a high constitutional hurdle before going into effect.

The high court has been reluctant to carve out exceptions to the First Amendment, striking down a ban on so-called "crush videos" that showed actual deaths of animals earlier this year.

California officials argue that they should be allowed to limit minors' ability to pick up violent video games on their own at retailers because of the purported damage they cause.

Violent video games are "especially harmful to minors," said Zackery P. Morazzini, a California supervisory deputy attorney general who argued the case for the state.

California's 2005 law would prohibit anyone under 18 from buying or renting games that give players the option of "killing, maiming, dismembering, or sexually assaulting an image of a human being." Parents would be able to buy the games for their children, but retailers who sell directly to minors would face fines of up to \$1,000 for each game sold.

That means that children would need an adult to get games like "Postal 2," the first-person shooter by developer Running With Scissors that features the ability to light unarmed bystanders on fire. It would also apply to the popular "[Grand Theft Auto IV](#)," a third-person shoot-'em-up from Rockstar Games that allows gamers to portray carjacking, gun-toting gangsters.

Some Supreme Court justices wondered where the regulation would stop if they allowed California's law to go forward.

"What about films?" asked Justice Ruth Bader Ginsburg. "What about comic books?"

Justice Antonin Scalia wondered if movies showing drinking and smoking might be next.

"I am concerned with the First Amendment, which says Congress shall make no law abridging the [freedom of speech](#)," he said. "It has never been understood that the freedom of speech did not include portrayals of violence. You are asking us to create a whole new prohibition which the American people never ratified when they ratified the First Amendment."

The California law never took effect. Lower courts have said the law violates minors' constitutional rights under the First and Fourteenth amendments, and that the state lacked enough evidence to prove that violent games cause physical and psychological harm to minors. Courts in six other states, including Michigan and Illinois, reached similar conclusions, striking down similar bans.

The Supreme Court will make a decision sometime next year.

"You are asking us to go into an entirely new area where there is no consensus, no judicial opinions. And this indicates to me the statute might be vague," said Justice Anthony Kennedy.

Opponents of the ban have called the measure unnecessary because virtually all major game publishers and retailers employ a universal voluntary rating system, much like movie studios and theaters. They assign one of eight age-specific ratings to games, and block children from buying those rated M for "mature" and AO for "adults only."

California lawmakers were trying to help parents control what type of video games their children had access to, Morazzini said.

Paul M. Smith, lawyer for the Entertainment Merchants Association, countered that there was no proof that violent video games were any more harmful than television, books or movies.

Chief Justice John Roberts appeared to disagree.

"In these video games the child is not sitting there passively watching something. The child is doing the killing. The child is doing the maiming. And I suppose that might be understood to have a different impact on the child's moral development." Roberts said.

Showing stronger support, Justice Stephen Breyer said it doesn't make sense to allow bans on minors from accessing pornography and not be able to block them from graphically [violent video games](#).

What if a [video game](#) showed "gratuitous torture of children?" Breyer asked. "'Now you can't buy a naked woman, but you can go and buy that,' you say to the 13-year-old. Now what sense is there to that?"

"Why isn't it common sense to say a state has the right to say, 'Parent, you want this for your child? You go buy it yourself,'" Breyer added.

Nearing the end of arguments, Justice Sonia Sotomayor pointed out the difficulties with enforcement.

She noted that the law bans minors buying video games that show violence to people. But what if game designers make a couple of anatomical changes to the depiction of human beings, like elongating the ears?

"Would a video game that portrayed a Vulcan as opposed to a human being, being maimed and tortured, would that be covered by the act?" Sotomayor asked.

Morazzini said those games would then be legal to sell to children.

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