LOS ANGELES
Daily Journal
www.dailyjournal.com
WEDNESDAY, APRIL 29, 2015

PERSPECTIVE

Downward facing dogma? Court disagrees

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California public school children perfecting their "lotus position" — and their parents — need not worry about the future of yoga instruction in their physical education classes. As the 4th District Court of Appeal ruled earlier this month in *Sedlock v. Baird*, 235 Cal. App. 4th 874 (2015), yoga in the public schools does not infringe students' religious freedom, because yoga is not a religious doctrine.

While this may have been the first case dealing with yoga in California schools, the court's opinion employs common sense and long-established precedent in arriving at a simple conclusion: not every activity historically connected with religion is inherently religious such that it constitutes a governmental establishment of religion in violation of the First Amendment and related state constitutional precepts. A contrary decision could have had a wide-reaching impact on other beneficial public school programs, such as meditation and martial arts, which were originally associated with religious traditions.

In *Sedlock*, a group of parents in the Encinitas Union School District in San Diego County sued to prevent the district from continuing to implement its yoga program in physical education classes, arguing that the instruction constituted an establishment of religion, specifically Hinduism, in violation of the state Constitution. The program, first instituted in 2011, and taught by yoga instructor Jennifer Brown, provided elementary school students with instruction in yoga poses, proper breathing and relaxation, and was intended to instill in the students the principles of empathy and respect.

The court focused on the fact that references to Hindu deities and many Sanskrit terms were removed from materials used in the program. The district also changed the names of various poses. For example, the "lotus position" became known as "criss-cross applesauce." These changes were made both before and after parents' complaints. After a bench trial, Judge John S. Meyer of the San Diego County Superior Court issued a statement of decision ruling that the yoga program did not run afoul of the Constitution. The parents appealed.

The Court of Appeal ultimately affirmed the decision of the trial court, noting that a fundamental problem in the petitioners' argument was the contention that "yoga is without question a Hindu religious exercise or practice that is simultaneously physical and religious." While this would likely be news to most California fitness seekers taking yoga classes at their local gym, the parents argued that the students were performing some of the same actions as Hindu individuals practicing yoga for religious purposes.

The 4th District cited case law from the 9th U.S. Circuit Court of Appeals for the proposition that a program's mere consistency with or resemblance to a religious practice does not automatically constitute an advancement of religion. Using the U.S. Supreme Court's "*Lemon* test" from *Lemon v. Kurtzman*, 403 U.S. 602 (1971), the 9th Circuit in *Brown v. Woodland Joint Unified Sch. Dist.*, 27 F.3d 1373 (9th Cir. 1994), held that a lesson in which students would role-play witches or sorcerers in certain situations, though arguably similar to Wiccan practices, did not, without more, constitute an advancement of religion. Similarly, in *Johnson v. Poway Unified Sch. Dist.*, 658 F.3d 954 (9th Cir. 2011), the 9th Circuit held that a teacher's display of Buddhist prayer flags during a lesson about Mount Everest did not foster excessive entanglement with religion.

Only one previous case has specifically addressed the constitutionality of yoga in public education.

Associated Press

In this 2012 file photo, Yoga instructor Kristen McCloskey, right, leads a class of third graders at Olivenhain Pioneer Elementary School in Encinitas.

In 2001, the 2nd U.S. Circuit Court of Appeals, in *Altman v. Bedford Cent. Sch. Dist.*, 245 F.3d 49 (2d Cir. 2001), ruled that yoga in the classroom was not unconstitutional even though "the presenter was dressed in a turban and wore the beard of a Sikh minister" because the presenter did not advance any religious concepts or ideas in his presentation to the students. The facts of *Sedlock* are even less objectionable than those in *Altman*, because in the Encinitas Union School District's program, the presenter had removed all references to religion and deities, and was not a minister or proponent of any particular religion. While she was certified by the K.P. Jois Foundation, an organization promoting a particular type of yoga, there was no evidence that the organization had influenced her instruction to any material degree. The court even went so far as to say there was no evidence that some of the measures taken by the district would have even been necessary, such as the removal of the Sanskrit terminology.

Sedlock ultimately supports a common-sense approach to the determination of whether a particular practice constitutes the improper establishment of religion in public school education in California. The court makes clear that a practice's historical or coincidental relationship with religion does not, without more, render it subject to constitutional challenge. To hold to the contrary would call into question a variety of standard, secular, and highly beneficial practices simply because they might have once been associated with religion. Now, physical education programs, and their instructors, can freely teach their favorite poses as part of their fitness programs in California's public schools.

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