

Ruling on Kaczynski papers wrong

Marjie Lundstrom

16 Mar 2004

My nightstand, maybe like yours, is cluttered with unfinished novels, unopened book-club buys, Sunday's New York Times and six months of unread magazines — a monument to noble literary intentions and no time to fulfil them.

What is pot on the spring reading list — or the summer or the fall or the winter, either — is anything by convicted Unabomber Theodore Kaczynski, the Harvard graduate and serial bomber who killed three people and injured 23 others between 1978 and 1995.

As this man plotted and killed, he scribbled away, laying out his anti-technology views and rantings against industrial society.

Six years after he admitted his guilt, and was sentenced to life in prison without parole, most of us care little about his intellectual ramblings.

But we should care a lot about a recent federal judge's decision, effectively endorsing the government's suppression of this material — writings, however radical or mad, that might have been donated to a respected university's special library collection for scholarly research.

Instead, they are being held by the government, which seems to think the donation or sale of these papers would elevate Kaczynski's "celebrity" status.

Never mind the First Amendment Never mind that some good might actually come from the papers' placement with the University of Michigan, whose research library includes a special collection of materials on anarchists, social protests and labor movements—historic materials used by scholars around the world.

Such a donation looked possible in January, when a federal magistrate judge in Sacramento ruled that the papers should be either sold to raise money for the victims, or returned to Kaczynski for donation.

US. Magistrate Judge Gregory G. Hollows was rightly suspicious of the government's motives, stating that "lurking in the background is the United States' seeming implicit desire to remove Kaczynski's ideas from public view ...

"(T)he court will not permit Kaczynski's ideas to be censored," he wrote. "That some may find an idea offensive does not shield the idea from First Amendment protection."

The government has argued that the material has real monetary worth only because of Kaczynski's notoriety, and that selling or donating his papers and belongings would allow him to profit from their "celebrity value."

U.S. District Judge Garland E. Burrell Jr. agreed with that logic two weeks ago, overturning Hollows' ruling and allowing the government to hold onto the papers indefinitely

In a followup statement. U.S. Attorney McGregor Scott said he was "very gratified" by the ruling.

"We believe that the First Amendment does not allow a person to benefit from the espousal of a doctrine of murder and violence," he said. "I am particularly concerned that the University of Michigan would seek to place the imprimatur of academia on such a destructive philosophy"

Obviously, few of us would relish the spectacle of the government auctioning off Kaczynski's stuff on eBay. But placing his papers in an esteemed library collection is not like displaying them at "Ripley's Believe it or Not."

Denying their donation for fear he may get some "celebrity" boost — and to protect the victims — is both paternalistic and a strike against the First Amendment, said Terry Francke, general counsel for the California First Amendment Coalition.

What he asked, if we suddenly got Osama bin Laden's Journal, chronicling how he and his followers came to murder nearly 3,000 on Sept 11?

"I don't think historians or, for that matter, people in government would say, 'That's just worthless information. Shred it. Burn it. Forget it. History's not entitled to it,'" he said.

Then again, maybe the government would — which is why rulings like this mustn't stand.

Kaczynski's attorney John Balazs — fired by Burrell, who said the matter didn't warrant a court-appointed attorney — said Kaczynski plans to appeal.

"I don't see what the point is of them putting in all this effort to prevent his papers from going to a library," said Balazs. "It wouldn't cost the government anything."

But it does cost us.

The world according to Ted Kaczynski may not be on my nightstand—or yours, either—but that isn't for the government to decide.

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