

Sunday, February 22, 2009

Congrats to the video game community and the First Amendment.

One thing I did not like about my years before eighteen-years-old was all the added restrictions on my liberty, including things as simple as going to a music club or dance club just because I had not yet reached the drinking age (which was eighteen in my native Connecticut at the time) even if I did not give a damn about drinking there. Praised be federal trial judge Ronald M. Whyte (a Republican appointee, no less, in the form of George H.W. Bush) and the Ninth Circuit three-judge panel (two of three are Bush I and Bush II appointees) for invalidating on First Amendment grounds, a California law limiting minors' access to so-called "violent video games." *VSDA v. Scharzenneger, et al.*, ___ F.3d __ (9th Cir., Feb. 20, 2009). I am no fan of violence, but remain strongly convinced that my free expression zealotry is on firm ground, and that it is important to err on the side of allowing too much speech rather than too little. Those opposing violent imagery and other violent material have the same First Amendment rights to rail against such material, but not to have government censor it, nor to require ratings of such material (e.g., PG, R and X). Of course, when courts allow a ban on free speech, censors will try to take the ban further. In *VSDA*, at least, the Ninth Circuit refused to extend to non-sexual material the Supreme Court's previous permission in *Ginsberg v. New York*, 390 U.S. 629 (1968), for governments to limit minors' access to sexually explicit material. ADDENDUM: Thanks to the WSJ Law Blog for covering this item.

Posted by Jon Katz in First Amendment at 00:00