

Parental Rights Eviscerated: Vermont Court Greenlights Experimental Shots Without Consent



Vermont's highest court has ruled that citizens have no legal recourse if their children are administered an experimental vaccine against parental wishes by public school personnel unless they prove willful misconduct and their child suffers serious physical injury or death. This surreal desecration of parental consent was justified by deference to federal statutes governing vaccinations, ignoring both federal and state constitutional liberties.

The plaintiffs in *Politella v. Windham Southeast School District et al.* are parents of a 6-year-old Vermont public school student who was injected with a Covid-19 vaccine approved under the federal Public Readiness and Emergency Preparedness (PREP) Act, which shields "covered" actors from all legal liability for their actions (short of wilfully causing death or serious injury). Fortunately, the young boy

suffered no adverse effects from the vaccine. The family sued in state court under various *state* causes of action; the Vermont Supreme Court ruled the PREP Act barred their complaint.

This outcome is directed by the United States Constitution. The ‘Supremacy Clause’ (Art. VI, Clause 2) provides that federal laws (including treaties) are ‘the supreme Law of the Land.’ State laws that conflict with federal statutes or other laws are ‘superseded’ or ‘preempted’ by the ‘supremacy’ of national laws. This is a central feature of federalism, which conversely respects states’ legal independence in areas not specifically regulated by Congress.

Federal Preemption

Federal Preemption can be either *expressed*, as when federal law contains explicit preemptive language; or *implied* by courts as implicit in the law’s structure and purpose. Implied preemption contains a legal subcategory called ‘conflict preemption,’ which includes ‘obstacle preemption’ (when the state law interposes an obstacle to the achievement of Congress’ objectives), and ‘impossibility preemption,’ which occurs when simultaneous compliance with both federal and state law regulations is impossible.

For decades, plaintiffs suing tobacco manufacturers for lung cancer and other injuries were blocked by federal preemption: because Congress had regulated the warning labels mandated on cigarette packaging (“Warning: The Surgeon General has determined that cigarette smoking...”), courts concluded that permitting personal injury suits under state law would compel tobacco companies to print stronger label warnings, thus conflicting with federal law. Even if Big Tobacco was experimenting with more addictive products (it was) or knew that its cigarettes were even more dangerous than the public was aware (it did), dying plaintiffs were left to perish at

the courthouse steps.

The Vermont Court's reasoning follows similar lines: allowing state claims for vaccines could require schools to adhere to higher public safety standards than "willful misconduct leading to death or serious bodily injury" (impossibility preemption). Such claims would also provide legal recourse against Big Pharma that Congress sought to prevent – obstacle preemption. The Court reasoned firmly: "We conclude that when the federal PREP Act immunizes a defendant, the PREP Act bars all state-law claims against that defendant as a matter of law" – even if the shot administered was experimental.

Much like the unintended shield that federal cigarette labeling laws designed to protect public health ended up providing to unethical tobacco companies, it is doubtful Congress intended to extinguish parental consent for their children's vaccines in the PREP Act. Purportedly enacted to protect public health, the PREP Act would have encountered pushback with such a provision. The Vermont Supreme Court's interpretation will fuel not just greater vaccine hesitancy but public school hesitancy – parents have no legal rights over experimental shots unless school officials willfully inflict death or serious physical injury.

The Vermont Supremes showed no remorse over their short-sighted opinion or even toward the parents and family – not even a token nod of compassion. This Kafkian Court made no nod of concern over potential government ineptitude, vaccine efficacy, adverse reactions, or effects in a young population not at significant risk from Covid-19. No mention of Constitutional rights either state or federal, to privacy, informed consent, due process, or anything else. This is hardly comforting to parents about to send their kids to school under ominous pathogenic clouds of Monkeypox and Bird flu, though doubtless comforting to Big Pharma.

A Flawed Decision

There are two outstanding flaws in the Vermont Supreme Court's outstandingly appalling *Politella* decision: the United States Constitution is THE highest law of the land – even above federal statutes; and, implied federal preemption is to be used sparingly, not to 'liberally' extinguish long-standing parental rights and public trust.

A safeguard against unintended outcomes (such as extinguishing parental rights governing medical decisions for experimental vaccines) is a judicial doctrine called the 'presumption against preemption.' Rooted in principles of federalism and respect for state sovereignty, this precept holds that federal law should not be interpreted to preempt state laws involving historic police powers 'unless that was the clear and manifest purpose of Congress.'

Vermont's Supreme Court demonstrated no concern for Vermont's state laws or the federalist protections thereof. This is ironic in the first state to ban slavery and grant blacks the right to vote in 1792, grant abortion rights in 1972, found a state constitutional right to protect citizens from searches by low-flying helicopters in 2008, and enact a Constitutional amendment to create a sanctuary state for minors to obtain transgender hormone and surgical treatment against parental wishes in 2022 – all based upon the Vermont Constitution.

If the courts of the nation do not uphold constitutional laws, who will protect young children from Big Pharma, experimental vaccines, government mandates, or even malfeasance? The Vermont Supreme Court's *Politella* decision is an atrocious legal precedent, completely ignoring any individual rights of citizens in favor of absolute totalitarian authority by the federal government.

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