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New York, New York

edited by EMILY DENITTO

Donald won't be trumped

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"I'd be lying if I said it doesn't have something to do with the Mandarin," he adds.

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"Everyone was excited," Ms. Agresta says. "One of the top people at ESPN took part in this. We had people come from L.A. and New York." ■

MARKETS		
DOW	S&P 500	NASDAQ
9,079.04	985.82	1,634.01
+67.51	+10.50	+31.35
+0.8%	+1.1%	+2%

The New York Sun

WEATHER		
TODAY	SATURDAY	SUNDAY
Partly sunny. High 92°	Sunny, cooler. High 82°	Mostly sunny. High 83°

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New York's Top Court Says Schools Fail To Provide Basic Education Supreme Court Moves To Protect Homosexual Relations

GAY RIGHTS ADVOCATES HAIL HISTORIC RULING; THREE JUSTICES DISSENT

By ANNE GEARAN
WASHINGTON — What gay men and women do in the privacy of their bedrooms is their business and not the government's, the Supreme Court said yesterday in a historic ruling striking down bans on what some states have called deviate sex acts.

Gay rights advocates called the 6-3 ruling the most important legal advance ever for gay people in America.

Two gay men arrested after police walked in on them having sex "are entitled to respect for their private lives," Justice Kennedy wrote. "The state cannot demean their existence or control their destiny by making their private sexual conduct a crime."

In a lengthy, strongly worded dissent, the three most conservative justices called the ruling a huge mistake that showed the court had been co-opted by the "so-called homosexual agenda."

"The court has taken sides in the culture war," Justice Scalia wrote for the three, suggesting the ruling would invite laws allowing same-sex marriages.

The court voted to strike down a Texas law that made homosexual sex a crime. The law allows police to arrest gays for oral or anal sex, conduct that would be legal for heterosexuals.

Of the 13 states with sodomy laws, four — Texas, Kansas, Oklahoma, and Missouri — prohibit oral and anal sex between same-sex couples. The other nine ban consensual sodomy for everyone. Alabama, Florida, Idaho, Louisiana, Mississippi, North Carolina, South Carolina, Utah, and Virginia.

The ruling invalidates all of those laws, lawyers said.

In strikingly broad and contrite language, the court overturned an earlier ruling that had upheld sodomy laws on moral grounds.

The Constitution's framers "knew times can blind us to certain truths and later generations can see that laws once thought necessary and proper in fact serve only to oppress," Justice Kennedy wrote.

Laws forbidding homosexual sex, once universal, now are rare. Those on the books have been rarely enforced but underpin other kinds of discrimination, lawyers for the two Texas men had argued to the court.

"This is unquestionably the most important gay rights case ever," said Matt Coles, director of the Lesbian and Gay Rights Project at the American Civil Liberties Union.

"The court is saying that personal relationships, intimate relationships that... give your life meaning, that gay people have the same right to those relationships that everyone else does."

Houston District Attorney Charles Rosenthal Jr., who argued in favor of the law before the high court, called



UNDERGROUND SOUNDS Members of the doo-wop band 'Spank' belt out the oldies for subway commuters.

Subway Music Rumbling to a Store Near You New Firm Wants Underground Tunesters To Lay Down Tracks

By ERIC WOLFF
Special to the Sun

Some people consider subway musicians annoying beggars who think they can sing. Others think at least some are artists looking for a place to perform.

Andrew Rallo, who runs Subway Records, a company promoting the best of this subterranean talent pool to the aboveground world, holds the latter view.

Mr. Rallo, a workflow analyst, formed Subway Records 18 months ago, hoping to promote the "positive energy" he heard riding the rails and in the stations. He gives artists free Web sites, acts as a clearinghouse of subterranean music information, and provides free e-commerce for musicians' CDs.

"We're showing people, look, we're not panhandlers down here," said Mr. Rallo. "I call them my buried treasure."

He believes the tunes heard below New York's streets are a return to music's joyful roots, and he says his company can "focus the energy of subway music."

Mr. Rallo hopes to form his own subway-musician record label, but for now he sees himself as a "promotional tool." The musicians and Subway Records form a symbiotic relationship: Artists plug the group during shows, or put up a banner behind their singing space, in exchange for Web design and electronic infospace.

By having the musicians push the site, Mr. Rallo figures, "We're leveraging 7.2 million people down there a week. It's an untapped market."

Spank is one of the 58 bands Mr. Rallo promotes, a doo-wop group that has been together for 12 years.

"It's easy to remember," Spank member Bernard Taylor said of the Web site. "People have told me they went there and it's a really cool site. Our show at Jimmy's Uptown was listed on the site and it helped us out a lot."

One of the unexpected benefits has been to give musicians a way to talk to each other, and a way for audience members to find the musicians. Some groups have been booked for gigs — one was even booked for a wedding.

Subway Records will unveil a renovated Web site in late July. It will offer homegrown tools to allow musicians to build their own Web sites with a minimum of technical knowledge.

Mr. Rallo says he has gotten "a lot of interest" from potential advertisers. Time Out New York responded to Mr. Rallo's overtures with a more unique approach, swapping

Taxpayers Seen Having To Pay More Money for Schools in City

JUDGE DeGRASSE'S RULING IS UPHELD ON A VOTE OF 4-1

By WILLIAM F. HAMMOND JR. and KATHLEEN LUCADAMO
Staff Reporters of the Sun

Taxpayers will have to pump more money into New York City's public schools because they're not providing children with "the opportunity for a sound basic education," the state's highest court ruled in a watershed decision yesterday.

By a 4-1 vote, the Court of Appeals at Albany found that city schools — with their run-down buildings, aging textbooks, ill-trained teachers, crowded classrooms, low test scores, and high dropout rates — do not satisfy the minimum requirements of the state constitution.

The court ordered state officials, by July 2004, to figure out how much more it will cost for city schools to provide an adequate education — a figure expected to run into the hundreds of millions or billions of dollars — and then make sure the city Education Department gets the extra money.

The decision, which cannot be appealed, upholds the original ruling by state Supreme Court Justice Leland DeGrasse.

It essentially forces the governor and the Legislature to devote more resources to the city schools — and, in all likelihood, other systems with similar problems — in hopes of improving their performance.

Given the ongoing budget squeeze facing both the city and the state, officials will have little choice but to reduce funding for other programs or raise taxes to satisfy the court's demands.

The decision also rejected a mid-level appeals court finding that the state's educational obligation ends after the eighth or ninth grade, when children will have learned enough to find minimal employment, vote, and serve on juries. Instead, the court said students are entitled to a "meaningful high school education," though not necessarily a diploma.

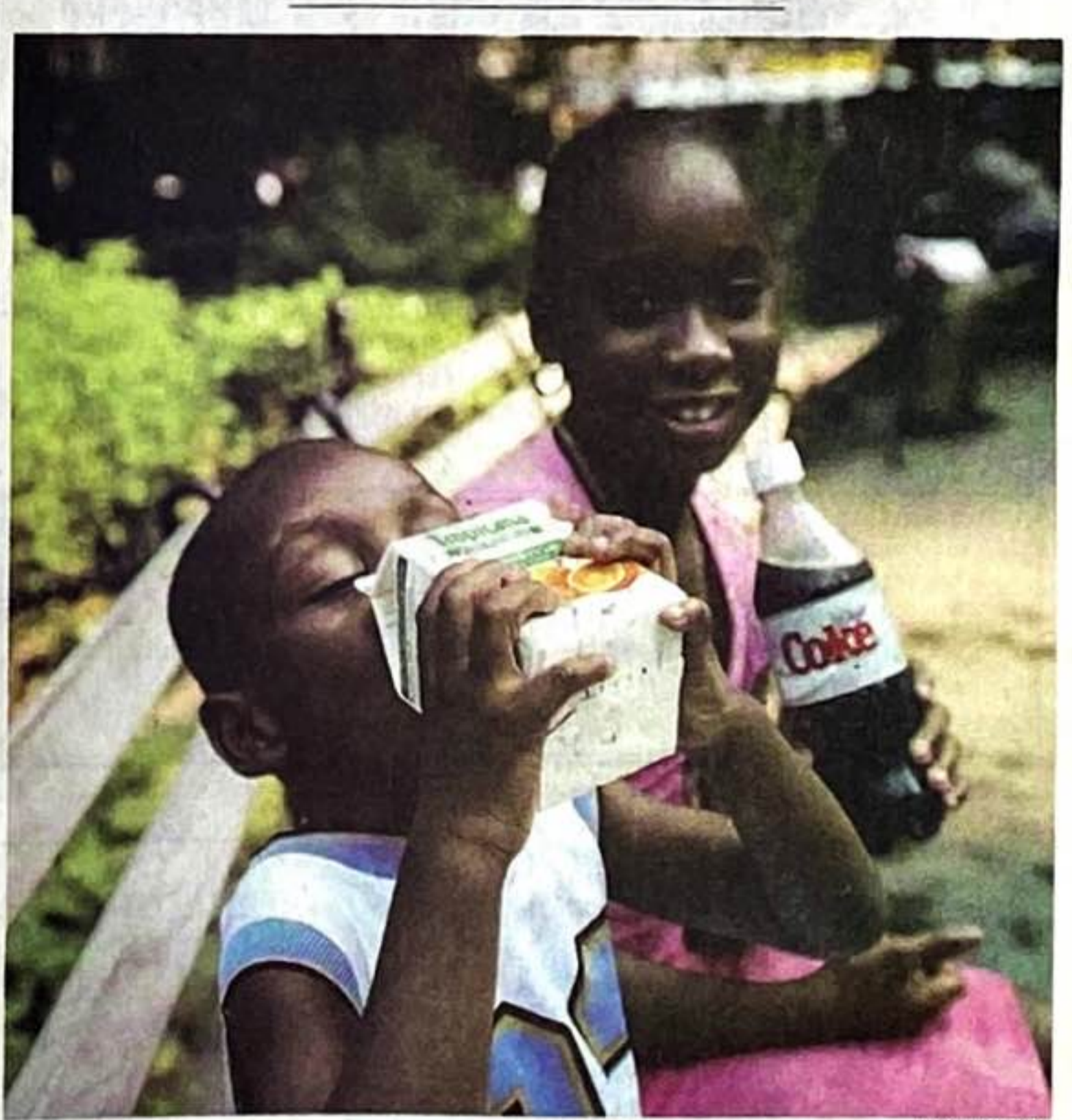
It said the evidence is overwhelming that New York City — where only half the high-school students graduate in four years — is not meeting that standard.

"There are certainly city schools where the inadequacy is not gross and glaring," Chief Judge Judith Kaye wrote for the majority. "Some of these schools may even be excellent. But tens of thousands of students are placed in overcrowded classrooms, taught by unqualified teachers, and provided with inadequate facilities and equipment. The number of children in these straits is large enough to represent a systemic failure."

The director of the group that brought the original suit in 1993, Michael Rebell of the Campaign for Fiscal Equity, called the ruling "a ringing triumph for every child in New York City, New York State, and throughout the nation."



JUDGE DeGRASSE Upheld.



WHICH IS BETTER? Sharell Overton, 9, has a diet soda, while her brother, Keith Shamburger, 3, enjoys orange juice. There's a debate over which is healthier.

School 'Health' Food May Be Fattening

By JULIA LEVY
Staff Reporter of the Sun

Which beverage is best for staying slim — a can of diet orange soda or a glass of orange juice?

If you ask the city's Department of Education, it's option B, the orange juice. But a group of doctors and nutritionists at the American Council on Science and Health insists the right answer is A, the soda, and it's launching a campaign to make the city's schools reconsider their new nutritional guidelines.

"It's not clear how they're deciding what stays and what goes," said a nutritionist and dietician who works at the council, Ruth Kava.

Ms. Kava said orange juice, which would be allowed under the new regulations, is not particularly "healthy" since it is relatively high in calories and provides little in the way of nutrients besides Vitamin C, which is available in the other foods kids eat.

She said diet soda, which is calorie-free, seems like a better option because it wouldn't make kids fat.

"Whether a food has a lot of nutrients or not is almost irrelevant when you're talking about obesity," she said. "Even a very nutritious food could contribute to obesity."

The Education Department says the reason it created the new rules, which are based on the U.S. Department of Agriculture regulations, is to cut obesity — which is a growing problem for the city's school children — and boost general levels of nutrition.

Ferrer Must Decide Whether To Endorse — or Anger — Sharpton

By BENJAMIN SMITH
Staff Reporter of the Sun

Fernando Ferrer is facing an early choice in how he defines his possible 2005 mayoral run: endorse the Rev. Al Sharpton for president, or risk his wrath.

Political observers, and backers of Rev. Sharpton, are watching Mr. Ferrer's decision closely as a clue to how he will shape a potential challenge to Mayor Bloomberg.

"This is a no-brainer — I don't understand what he's waiting for," one of Rev. Sharpton's leading supporters, Brooklyn City Council Member Charles Barton, said of Mr. Ferrer. "His decision is critical for building the black-Latino coalition."

Mr. Ferrer, the former Bronx borough president, began his 2001 mayoral race with the centrist image of a pro-death-penalty Catholic from the outer boroughs.

He then energized the campaign by shifting gears and stressing the idea of "two cities," a New York divided along lines of race and class.

He finished first in the Democratic primary, then lost narrowly in a runoff in which he won only 7% of white votes, according to exit polls, after Mr. Green's campaign played up the association with Rev. Sharpton.

This year, Mr. Ferrer has raised his profile with his sharp criticism of Mr. Bloomberg, but he has not declared himself as a candidate for mayor.

A poll released yesterday by the Hispanic Federation found that Mr. Bloomberg's popularity has plummeted among Hispanic New Yorkers, with 82% giving him a negative rating.

The poll found that Hispanics prefer Mr. Ferrer to Mr. Bloomberg by a 72% to 10% margin.

"This is a separate event," Mr. Ferrer said in a telephone interview.



FERRER



SELF-PORTRAIT Max Beckmann's 1938 painting.

City Is Tops With Art Collectors

By RACHEL DONADIO
Staff Reporter of the Sun

Nearly half of the world's 10 most active art collectors are New Yorkers, as are a quarter of the top 200, according to ARTnews magazine.

Some prominent non-New Yorkers, like rockers David Bowie and Elton John, composer Andrew Lloyd Webber, Hollywood moguls David Geffen and Michael Ovitz, software giant Peter Norton, and the Sultan of Brunei also made the list, which is based on interviews with dealers, auctioneers, and museum professionals worldwide.

Sheikh Saud al-Thani of Qatar ranked as the world's biggest spender on art last year, having spent hundreds of millions of dollars on antiquities, Islamic art, Old Master and Impressionist works, jewelry, and furniture.

The annual list, published in the summer issue of ARTnews, shows that "serious buyers for first-class material are undeterred by the current economy," said Milton Esterow, the magazine's editor and publisher. "The experts say the art market is in very good shape."

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...and cheese, while letting them eat things that might be worse, like potato chips. "The whole thing makes no sense."

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...ne said, adding that they will contribute to healthier lifestyle for the city's children.

...etician at Lenox Hill Hospital, Jennie Nixon, who isn't affiliated with the school system and is-

0 CALORIES

...they're also loaded with saturated fat — which leads to heart disease. "The real answer is moderation," she said. "And that's what people don't want to hear."

New York High Court Says Schools Fail To Provide Basic Education

SCHOOLS continued from page 1

The decision was also welcomed by a wide variety of state and city officials — including Governor Pataki, whose administration had fought the suit for eight years.

"I think it's positive in the sense that it will allow us to reform education," Mr. Pataki told reporters yesterday. "This is a historic opportunity for us to really reform and focus on putting the dollars in the classroom...and making sure that every kid gets a good-quality education not just in the city, but across the state — and that's always been our goal."

Mayor Bloomberg — who supported the suit since before becoming mayor — said it was "a wonderful day for New York City.... We can't shortchange our schools, and the state can't shortchange us."

The president of the United Federation of Teachers, Randi Weingarten, compared the ruling to the *Brown v. Board of Education* decision, which called for ending racial segregation in schools.

"This decision gives us a blueprint for providing all children with equal opportunity to get an education," she said.

The dissenting judge, Susan Read,

argued that her colleagues were improperly interfering in policymaking decisions that should be made by the executive and legislative branches of government. Judge Read, appointed by Mr. Pataki, said the court's new definition of a "sound basic education" is so vague that it will lead to "limitless litigation."

"The majority has allowed its deep sympathy for educational excellence to overwhelm its sense of the proper and practical limits of the judicial function," she wrote.

Judge Read did not dispute that conditions in many city schools are poor. But she noted that New York City already spends more per pupil than the average of 45 other states, and that its students, while scoring below the state average on some tests, score at or above the national average on others.

The vice president of the Foundation for Education Reform & Accountability, Brian Backstrom, said he disagrees with the idea that "more funding equals better performance."

extra funding in phases over a period of years, as other states have done in similar cases.

The court left it up to Judge DeGrasse to determine whether the state is complying with the Constitution.

"They have a lot of room under the court's decision to fashion a reasonable response," said a lawyer for the Campaign for Fiscal Equity, Joseph Wayland of Simpson, Thacher & Bartlett. "If what they do doesn't satisfy the constitutional obligation, we'll be back in court."

He argued the state should make it easier for parents to pull children out of failing public schools by opening more charter schools or providing vouchers to pay private school tuition.

"Public education in New York has rotted because of monopoly control," Mr. Backstrom said. "It simply doesn't work anymore. We need to try new, better things. Throwing money at the same system isn't going to make anything better and will make everyone poorer."

The Campaign for Fiscal Equity by March expects to complete a study of what it will cost to fix the city schools — in time to guide negotiations with lawmakers over next year's education budget, Mr. Rebell said.

He predicted Albany will send city schools the



HIROKO MASUIKE

WINNERS City Council Member Robert Jackson, right, gestures at a City Hall press conference on the school funding case as Mayor Bloomberg, left, and Schools Chancellor Joel Klein, second left, listen.

Subway Music of Every Stripe Rumbling Into a Store Near You

SUBWAY continued from page 1
ad space in the magazine for ad space on the site, and then buying T-shirts for 16 of the musicians that promote the magazine and Subway Records.

"We wanted synergy with the musicians," said magazine spokeswoman Marisa Fariña.

The T-shirts have the slogan "We hit every note" and are intended to drive people to the site, which creates more profits for the musicians.

Subway Records has no relationship with Music Under New York,

the MTA-sponsored music program that schedules certain prime spaces, but each is aware of the activities of the other.

"We want people to make some kind of living," said Tim Higginbotham, the consultant who runs MUNY. "It's something that in my position I can't necessarily do." Mr. Rallo had his first epiphany

during a period of job interviews as he took the subways from his home in Queens to different parts of New York, and while he was studying for his master's degree in psychology from Long Island University.

"I was listening to one of these musicians," Mr. Rallo said. "Watching people: the happiness, the look in

their faces, the happiness put into these people. I liked it; just a great vibe."

"On my way home at that moment, I wanted to do something to really promote that positive energy," he said.

He started saving his money and finally, last year, joined up with three other men to start the company.

Mr. Rallo is proud of his work: "We build ourselves up literally from underneath the ground up."

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