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# Ruling for Salinger, Judge Bans 'Rye' Sequel

By **Sewell Chan** July 1, 2009 4:24 pm

Updated, 6:17 p.m. | In a victory for the reclusive writer J. D. Salinger, a federal judge on Wednesday indefinitely banned publication in the United States of a new book by a Swedish author that contains a 76-year-old version of Holden Caulfield, the protagonist of “The Catcher in the Rye.”

The judge, Deborah A. Batts, of United States District Court in Manhattan, had granted a 10-day temporary restraining order last month against the author, Fredrik Colting, who wrote the new novel under the pen name J. D. California.

In a 37-page ruling, Judge Batts issued a preliminary injunction — indefinitely banning the publication, advertising or distribution of the book in this country — after considering the merits of the case. The book has been published in Britain.

“I am pretty blown away by the judge’s decision,” Mr. Colting said in an e-mail message after the ruling. “Call me an ignorant Swede, but the last thing I thought possible in the U.S. was that you banned books.” Mr. Colting and his lawyer, Edward H. Rosenthal, said they would appeal. The decision means that “members of the public are deprived of the chance to read the book and decide for themselves whether it adds to their understanding of Salinger and his work,” Mr. Rosenthal said.

Marcia B. Paul, a lawyer for Mr. Salinger, declined to comment on the decision.

In a copyright infringement lawsuit filed June 1, lawyers for Mr. Salinger contended that the new work was derivative of “Catcher” and Holden Caulfield, and

infringed on Mr. Salinger's copyright.

The work by Mr. Colting, 33, centers on a 76-year-old "Mr. C," the creation of a writer named Mr. Salinger. Although the name Holden Caulfield does not appear in the book, Mr. C is clearly Holden, one of the best-known adolescent figures in American fiction, aged 60 years.

(The similarities between the characters were not much in dispute. As Judge Batts wrote in her ruling, "Both narratives are told from the first-person point of view of a sarcastic, often uncouth protagonist who relies heavily on slang, euphemisms and colloquialisms, makes constant digression and asides, refers to readers in the second person, constantly assures the reader that he is being honest and that he is giving them the truth.")

Mr. Colting's lawyers argued, among other things, that the new novel, titled "60 Years Later: Coming Through the Rye," did not violate copyright laws because it amounted to a critical parody that had the effect of transforming the original work.

Judge Batts rejected that argument, writing:

To the extent Defendants contend that 60 Years and the character of Mr. C direct parodic comment or criticism at *Catcher* or Holden Caulfield, as opposed to Salinger himself, the Court finds such contentions to be post-hoc rationalizations employed through vague generalizations about the alleged naivety of the original, rather than reasonably perceivable parody.

The judge's ruling weighed literary arguments made by both sides in the dispute. "To the extent Colting claims to augment the purported portrait of Caulfield as a 'free-thinking, authentic and untainted youth,' and 'impeccable judge of the people around him' displayed in *Catcher* by 'show[ing] the effects of Holden's uncompromising world view,'" Judge Batts wrote, citing a memo submitted by Mr. Colting, "those effects were already thoroughly depicted and apparent in Salinger's own narrative about Caulfield."

Judge Batts added:

In fact, it can be argued that the contrast between Holden's authentic but critical and rebellious nature and his tendency toward depressive alienation is one of the key themes of *Catcher*. That many readers and critics have apparently idolized Caulfield for the former, despite — or perhaps because of — the latter, does not change the fact that those elements were already apparent in *Catcher*.

It is hardly parodic to repeat that same exercise in contrast, just because society and the characters have aged.

While the case could still go to trial, Judge Batts's ruling means that Mr. Colting's book cannot be published in the United States pending the resolution of the litigation, which could drag on for months or years.

Mr. Salinger, who has not published any new work since 1965, has sued several times to protect his works, including successful efforts to stop publication of some of his personal letters in a biography and to halt a staging of "Catcher" by a college theater company in San Francisco. He has also turned down requests, from Steven Spielberg, among others, for movie adaptations of "Catcher."

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