



ACLU

AMERICAN CIVIL LIBERTIES UNION
of TENNESSEE

The Vigil

Summer 2009

Tennessee Schools End Censorship of Gay Educational Web Sites After ACLU Lawsuit

Andrew Emitt, a 17-year-old senior in Knoxville, was at the school library searching for scholarships for LGBT students when he discovered he couldn't access websites for non-profit advocacy and educational organizations such as the Human Rights Campaign, Parents, Families and Friends of Lesbians and Gays, and the Gay, Lesbian and Straight Education Network. Instead of the websites, a message appeared on his screen stating that the filtering software his school used blocked gay websites. Andrew contacted ACLU-TN. Karyn Storts-Brinks, a high school librarian, also independently contacted ACLU-TN expressing the same concerns.

Further investigation revealed that Metropolitan Nashville Public Schools, Knox County Schools and as many as 105 other school districts, or about 80 percent of Tennessee public schools, were using Internet filtering software by Education Networks of America to block Web sites



containing pro-LGBT speech. However, the filter did not block access to Web sites that urge LGBT persons to change their sexual orientation or gender identity through so-called "reparative therapy" or "ex-gay" ministries – a practice denounced as dangerous and harmful to young people by such groups as the American Psychological Association and the American Medical Association.

Blocking access to information about LGBT issues while allowing anti-gay information is unlawful and potentially

dangerous. Allowing access to Web sites that present one side of an issue while blocking sites that present the other side is illegal viewpoint discrimination, violating students' and faculty's First Amendment rights. In addition, censoring Web sites prevents students and faculty from accessing important information about scholarships for LGBT students, doing research for school-related assignments, and facilitating Gay-Straight Alliance (GSA) club activities. Students need to be able to access information about their legal rights or what to do if they're being harassed at school. The discriminatory censorship in this case does nothing to make students safe from material that may actually be harmful, but only hurts them by making it impossible to access important educational material.

While schools may have an interest in using filters to block material that could be harmful to minors, the "LGBT" filter category in this case did not include material which was sexually gratuitous and thus already blocked by the software's "pornography" filtering category.

On May 19, 2009 ACLU-TN, joined by the ACLU's LGBT Project and First Amendment Working Group, filed a lawsuit in federal court against Metropolitan Nashville Public Schools and Knox County Schools on behalf of Keila Franks and Emily Logan, Nashville high school students; Bryanna Shelton, a Knoxville student; and Storts-Brinks, who is also the advisor of the school's GSA.

On June 3, Knox County Schools Superintendent Jim McIntyre released a statement saying that ENA was no longer blocking the LGBT category. The ACLU believes this change is in effect in all Tennessee districts that use the ENA software. Additionally, ENA's Web site shows that it has made a similar change for schools throughout the state of Indiana.

"Schools that censor educational information out of some misguided assumption that anything about LGBT people is automatically sexual or inappropriate are doing a disservice to their students," said Tricia Herzfeld, staff attorney with the ACLU of Tennessee. "We aren't dropping the lawsuit right away, but we certainly look forward to getting assurances from both school boards in this case that they will respect students' rights and refrain from this sort of censorship in the future."

Election Ballot for ACLU-TN At-Large Board Members

This is your ballot for the election of at-large members to the ACLU-TN Board of Directors. The following slate was proposed by the Nominating Committee of the ACLU-TN Board. Current board members are identified by asterisks. Nominees were selected to increase minority and geographic representation and to diversify board skills and experiences. ACLU-TN must receive ballots from at least 10 percent of the members in good standing or from 25 members, whichever is less, in order to elect at-large directors. Ballots must be received by Monday, August 24, 2009.

* **Eugene (Gene) Bartoo** (Chattanooga) is a recently retired professor of education at the University of Tennessee at Chattanooga. He is also active with the Chattanooga theater community, acting in a number of local productions. As an active member of the ACLU-TN, Gene has organized and hosted a number of workshops devoted to ACLU concerns. Gene's areas of interest include freedom of speech, religious freedom and privacy.

Phillip Bell (Nashville) is the Executive Producer at Earnhardt Pirkle, where he has produced a wide variety of awareness and fundraising videos for non-profit organizations and the health care industry. He was associate producer of *Uncounted*, a documentary on the disparities in American vote counting. Previously, Phil was a news anchor, reporter, producer and manager for numerous major network affiliates, including the NewsChannel 5 Network in Nashville. Phil is on the boards of the National Academy of Television Arts & Sciences and Nashville Cares. He currently volunteers with the Brooks Fund's multimedia project on Tennessee's LGBT history. Phil has received three Emmys, among many other awards. He is particularly interested in freedom of speech and press, open government and LGBT rights.

* **Thomas Bibler** (Chattanooga) is a Professor Emeritus after 32 years at UT Chattanooga. At various times, Tom was UT's Director of Student Teaching, Head of the Teacher Preparation Academy, Head of the Graduate Studies Division, Head of the Department of Human Ecology and Faculty Senate President. He is a Past-President of ACLU-TN and has also served as Treasurer and Affirmative Action Officer. In 2000, Tom, his wife and others were successful plaintiffs in the ACLU-TN lawsuit challenging the Ten Commandment display in the Hamilton County Court House. He is especially interested in LGBT rights, the death penalty and separation of church and state.

* **Priscilla Craig** (Nashville) recently retired from the Tennessee Education Association, where she was field organizer and union representative for a six-county area. Prior to that, she served as a lobbyist and political action fundraiser and trainer. Earlier in her career she was an elementary teacher and librarian. She is now a docent at Belmont Mansion and volunteers for the fair trade store Ten Thousand Villages and the Nashville Zoo. Her degrees include a B.S. in elementary education from Berry College and a Master of Librarianship from Emory University. She is especially interested in freedom of speech and privacy issues.

Stephanie Ditenhafer (Nashville) is a consultant with The Hanback Group in human resources. Previously she was the Senior Human Resources Director for the Nashville Predators and the Nashville Arena. Stephanie's experience includes creating employee satisfaction surveys, manuals, communication pieces and evaluation systems, implementing recruitment procedures and organizing employee appreciation events. She is a graduate of

Hobart and William Smith Colleges and she assisted a Boston-based equity fund in Warsaw prior to earning an MBA from Vanderbilt. Stephanie is certified as a Senior Professional in Human Resources. She is on the board of The Schooner Foundation. Her areas of interest include protecting a woman's right to choose, racial justice, immigrants' rights and the death penalty.

* **Vernon "Sonnye" Dixon, Jr.** (Nashville) is currently the pastor at Hobson United Methodist Church. Prior to that, he was a real estate broker at Capitol Realty. Sonnye serves on the UMC Tennessee Conference Standing Rules Committee and the Nashville District Board of Ordain Ministry and is chair of the Nashville District Hunger Committee. He is a life member and past president of the Nashville Branch of the NAACP. Currently the vice-president of the Interdenominational Ministers Fellowship, Sonnye is active on the boards of Nashville Public Television, Nashville Alliance for Public Education, Nashville Family and Children Services, Justice for our Neighbors and the Armonia Project. He attended Fisk University. His interest areas include the death penalty, equity in public education, racial equality, LGBT rights and voting rights.

Brian S. Faughnan (Memphis) is a Partner at Adams and Reese. In addition to his commercial litigation and appellate practice, Faughnan represents, advises and counsels corporate and private lawyers and law firms on legal ethics and professional responsibility. Faughnan, who serves as the chair of Adams and Reese's Pro Bono Committee, is listed in The Best Lawyers in America and is a "Rising Star" according to Mid-South Super Lawyers. He is Vice-Chair of the Tennessee Bar Association's Standing Committee on Ethics and Professional Responsibility. He was selected as one of Memphis Business Journal's "Top 40 Under 40" and is a graduate of the Leadership Memphis FastTrack Program. Brian received his undergraduate degree from Rhodes College and his law degree from the University of Memphis. His areas of interest include religious freedom, freedom of speech, and racial, gender and LGBT equality.

* **Mona Frederick** (Nashville) is the Executive Director of the Robert Penn Warren Center for the Humanities at Vanderbilt University. She has been with the program since its inception in 1988. Prior to joining the staff of the Warren Center, she was on the staff of the National Humanities Center in Research Triangle Park, North Carolina. She also serves on the Board of Commissioners for the Davidson County Sheriff's Office Work Release Commission. She is a graduate of the University of North Carolina at Chapel Hill. Her areas of interest include racial justice, criminal justice and privacy.

* **Virginia Foard** (Nashville) is an Assistant Public Defender with the Office of the Metropolitan Public Defender. She was a law clerk for Judge Robert B. King of the U.S. Court of Appeals for

the Fourth Circuit, and externed for Judge Alex Kozinski on the U.S. Court of Appeals for the Ninth Circuit. She is licensed to practice law in California and Tennessee. In addition to her J.D. from UCLA, she received a Ph.D. in Statistics and two master's degrees from the University of California, Berkeley and was previously a professor of biostatistics at UCLA. Her undergraduate degree is in applied mathematics from the Georgia Institute of Technology. Her areas of interest include freedom of speech, and fairness and liberty issues relating to criminal justice.

* **Melinda Meador** (Knoxville) is of counsel with Bass Berry Sims PLC. She handles a broad spectrum of business and commercial litigation, including banking, contract disputes, products liability, intellectual property, professional liability, antitrust and securities litigation. Melinda is a graduate of Murray State University and the UT College of Law. After a clerkship with Justice Murry B. Cohen, First District, Texas Court of Appeals, she was assistant district attorney in Houston. Melinda served on the Knoxville Bar Association's Board of Governors and currently co-chairs its Professionalism Committee. She is adjunct faculty at the UT College of Law, serving on the Dean's Advisory Council and the Legal Clinic Advisory Board, as well as the boards of the Knoxville Jazz Orchestra and the YWCA. Her areas of interest include the death penalty, privacy and reproductive freedom.

Amy Seigenthaler Pierce (Nashville) is the President of Seigenthaler Public Relations, overseeing national projects, campaigns and client services. Amy has extensive experience in national and international strategic communications, media relations and diplomacy. Previously, she was Senior Vice President at Rasky Baerlein Strategic Communications. She was also Special Aide and Speechwriter to U.S. Ambassador Jean Kennedy Smith at the U.S. Embassy in Dublin during five critical years in the Irish peace process. Amy graduated from Boston College and has also worked as a journalist in the Boston area. She serves on the boards of Camp Marymount, Stand for Children Nashville and Pope John Paul II High School, and is an active advisor for the U.S.-Ireland Alliance. Her interest areas include freedom of speech, the death penalty, racial justice and LGBT rights.

* **Ben Pressnell** (Tazewell) is the owner and managing partner of Pressnell & Harrell law firm. In the late 1980s, Ben was the 11-year-old plaintiff in the successful ACLU-TN-sponsored case against the Claiborne County Board of Education, which challenged Bible readings and Christian instruction during school hours. Ben received his B.A. in philosophy from Vanderbilt Uni-

versity and his J.D. from the University of Tennessee. Before returning to his hometown of Tazewell to practice law, Ben was a law clerk in Knoxville and New York City. He interned in Rep. Bart Gordon's Washington office and at the ACLU-TN office. He is the past president of Leadership Claiborne. Ben's areas of interest include criminal justice and the First Amendment.

* **Charles (Buzz) Sienknecht** (Chattanooga) is a rheumatologist in private practice. He is also a playwright and has been a regular attendee at the Sewanee Writers' Conference since 1990. Buzz received his undergraduate degree from the University of Tennessee and graduated from the University of Memphis College of Medicine. He trained at Philadelphia General Hospital and returned to Tennessee to complete his subspecialty training. Buzz was also a battalion surgeon in Vietnam, where he served with the 173rd Airborne Brigade. Buzz's areas of interest include freedom of expression, privacy and due process.

* **Hershell Warren** (Nashville) is Senior Advisor to the Nashville Mayor. Previously he was Director of Public Policy and Governmental Affairs at Meharry Medical College and Executive Director of the Lloyd C. Elam Mental Health Center. Boards he has served on include those of the Metro Human Relations Commission, the National Conference of Community and Justice (Nashville) and the National Prevention Partnership. He is also past President of the TN Association of Community Mental Health Centers and the TN Alcohol and Drug Association. Hershell served on the Health Care Task Force of the Tennessee Black Caucus of State Legislators and worked on statewide health care initiatives for the Office of Minority Health and the Black Health Care Commission. He is a graduate of Fisk and received his JD and MBA from Vanderbilt. His areas of interest include immigrant rights, racial justice and the First Amendment.

* **Erika Wollam-Nichols** (Nashville) is the Chief Operating Officer at the Bluebird Café and an adjunct instructor at the Watkins Institute of Art, Design & Film. Previously, she was Director of Development for the Nashville Songwriters Association International and recently graduated with an MFA from Vermont College of Fine Arts. Formerly Vice-President of Marketing at the Country Music Hall of Fame, she has spent many years involved with the Nashville music and arts scene. She was the Associate Professor of WPLN's Songwriter Sessions and spent five years as Program Director for the Summer Lights Festival. Erika graduated from Belmont University. Her areas of interest include freedom of expression, privacy and equal treatment under the law.

**2009
Election
Ballot
for
ACLU-TN
At-Large
Board
Members**

Please place an X before the names of up to 15 nominees. Each name on the ballot has two boxes beside it; for joint members, one person can use the first box and the other can use the second box.

The outer envelope in which you mail your ballot must show your name and address so that we can verify membership. If you wish, you may seal your ballot in an unmarked inner envelope.

<input type="checkbox"/> <input type="checkbox"/> Eugene (Gene) Bartoo <input type="checkbox"/> <input type="checkbox"/> Phillip Bell <input type="checkbox"/> <input type="checkbox"/> Thomas Bibler <input type="checkbox"/> <input type="checkbox"/> Priscilla Craig <input type="checkbox"/> <input type="checkbox"/> Stephanie Ditenhafer <input type="checkbox"/> <input type="checkbox"/> Vernon "Sonnye" Dixon, Jr. <input type="checkbox"/> <input type="checkbox"/> Brian S. Faughnan <input type="checkbox"/> <input type="checkbox"/> Mona Frederick <input type="checkbox"/> <input type="checkbox"/> Virginia Foard <input type="checkbox"/> <input type="checkbox"/> Melinda Meador <input type="checkbox"/> <input type="checkbox"/> Amy Seigenthaler Pierce <input type="checkbox"/> <input type="checkbox"/> Ben Pressnell <input type="checkbox"/> <input type="checkbox"/> Charles (Buzz) Sienknecht <input type="checkbox"/> <input type="checkbox"/> Hershell Warren <input type="checkbox"/> <input type="checkbox"/> Erika Wollam-Nichols	<p>Write-In Candidates</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
	<p>Ballots must be received by Monday, August 24, 2009 at:</p> <p>ACLU-TN Board Ballots P. O. Box 120160 Nashville, TN 37212</p>



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Bill of Rights Celebration
Saturday, November 21, 2009
Loews Vanderbilt Hotel
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Nashville, TN**

**Visit www.aclu-tn.org
for more info or to purchase tickets.**

