2002 Michigan Voter Guide Enclosed

CIVIL LIBERTIES NEWSLETTER

The American Civil Liberties of Michigan (313) 578-6800
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IMMIGRATION HEARINGS CASE

Another ACLU Victory

IN A UNANIMOUS DECISION in August, a federal appeals court struck down the government's blanket policy of conducting secret deportation hearings in post-9/11 cases as a violation of the First Amendment. It is the first such decision by a federal appellate court anywhere in the country.

"We applaud this decision for recognizing the importance of the right of the press and the public to know what's going on in our courts," said Kary Moss, ACLU of Michigan executive director. "The court sent a clear message that this administration can't run a secret government."

Judge Damon Keith, writing for the court, eloquently stated "The Executive Branch seeks to uproot people's lives, outside the public eye, and behind a closed door. Democracies die behind closed doors. The First Amendment, through a free press, protects the people's right to know that their government acts fairly, lawfully, and accurately in deportation proceedings. When government begins closing doors, it selectively controls information rightfully belonging to the people. Selective information is misinformation."

Under the challenged policy, the press and public (including family members) were automatically excluded from any deportation hearing designated by the Justice Department as a "special interest case." In declaring that policy unconstitutional, the United States Court of Appeals for the Sixth Circuit emphasized the value of open proceedings and stressed that any legitimate security concerns must be addressed on a case-by-case basis and not through a categorical closure order.

The lawsuit, *Detroit News, Inc., et al v. Ashcroft et al,* was filed by the national and state offices of the ACLU on behalf of Representative John Conyers Jr., the *Detroit News,* and the *MetroTimes,* an alternative weekly after the public and the press were turned away from the deportation hearings in the case of Rabih Haddad.

The plaintiffs in the *Detroit News* case were represented by Michael J. Steinberg and Kary Moss of the ACLU of Michigan, Lee Gelernt, Lucas Guttentag, and Steven R. Shapiro of the national ACLU; Leonard M. Niehoff of Butzel, Long, P.C.; and John J. Romayne, III of Kasiborski, Romayne & Flaska.

The opinion may be found at:
http://pacer.ca6.uscourts.gov/cgi-bin/getopn.pl? OPINION=02a0291p.06

ACLU Teams Up with Detroit Public Library

HUNDREDS OF PATRONS visit the Detroit Public Library every day and the ACLU was extremely visible there for two weeks in September. To celebrate Banned Book Week, we partnered with the library to display and provide information about just some of the books that have been banned or challenged in the last year. Unfortunately, censorship is not a thing of the past. *To see a list of the "100 of the Most Frequently Challenged Books" go our website at www.aclumich.org*



From the Legal Director

THE RULING ON THE open-immigration courts decision *(see p.1)* is the first major decision of a U.S. Court of Appeals to place the breaks on John Ashcroft's assault on civil liberties in the post 9-11 world. We are very proud of that victory and it is probably the most important case I've worked on since joining the ACLU staff. I am also proud to report about the following cases that we recently filed, won or resolved without the need for litigation:

VICTORY FOR DISABILITY RIGHTS

In a decision embracing the principle of equality for people with disabilities, a judge in the U.P. ruled that Mackinac Island must permit a resident with multiple sclerosis to ride an electric-assisted tricycle. Because of his disease, Don Bertrand does not have the stamina or balance to ride a typical two-wheel bicycle. Upon the recommendation of his doctor, he purchased a tricycle with a virtually silent motor to help him make it up a hill on those occasions when he did not have the strength to make it on his own. Even though snowmobiles, golf carts and electric wheelchairs are allowed, the Island refused to grant Bertrand permission to use the tricycle, citing its general policy prohibiting motorized vehicles. Recognizing that cycling was an integral part of Island, Judge Martin Breighner of Mackinac County Circuit Court ruled the ADA "requires the [Island] to provide [Bertrand] with the opportunity to participate and enjoy the Mackinac Island experience. The purpose of these statutes is to tear down barriers that separate persons with disabilities from more fortunate people, and to tear down barriers which reinforce discrimination." *Bertrand v. City of Mackinac Island.* Attorneys: Stewart Hakola and Michael Steinberg with assistance from law interns Justine Weyerhaeuser and Jay Lee.

FIREFIGHTERS' RIGHT TO SPEAK OUT

This summer the ACLU filed a lawsuit on behalf of the International Association of Firefighters in federal district court challenging the constitutionality of a Frenchtown ordinance that makes it a crime for firefighters to speak to the news media about any "fire department matters." The ACLU argues that the First Amendment protects public employees' right to speak out on matters of public concern. *International Association of Fire Fighters, Local 3233. Frenchtown Charter Township.* Attorneys: David Radtke and Alison Paton with help from Sarah Zearfoss and Neal Bush.



Michael J. Steinberg

DISCRIMINATION AGAINST ARAB-AMERICANS

The Lansing Area ACLU filed a successful friend-of-the-court brief in an employment discrimination case against a school district and one of its building contractors on behalf of an Arab-American electrician. The contractor's supervisors repeatedly used ethnic slurs against the electrician and told him to take his work back to his "fucking country." The ACLU brief argued that there was plenty of evidence to warrant a hostile work environment civil rights discrimination claim against both the school district and the contractor. The judge agreed and has refused to dismiss the case. *Badiee v. Brighton Area Schools.* Cooperating Attorney: Frederick Baker.

FIGHTING RACIAL PROFILING

The Western Michigan ACLU filed a friend-of-the court brief in a high-profile case involving the arrest of three African American men in Grand Rapids. The arrests were made after a woman told a police officer that she was afraid because a black man had approached her. She could not describe the man or the car that he had been driving. After circling the block, the police eventually found three African American men sitting in a car. Although an officer testified that there was no sign the men were engaged in suspicious activity, he put on the cruiser's lights and ordered the men out of their car at gunpoint. As the driver exited his car, he called out to the neighbors for help because he was afraid of police brutality. The men were arrested for "resisting and opposing a police officer." The judge dismissed the case because there was no reason to activate the cruiser lights and "seize" the men. The prosecutor appealed and the ACLU argues in its brief that the dismissal was proper. *People v. Jones.* Cooperating Attorneys: Miriam Aukerman and Gary Gershon.

PROTECTING POLITICAL SPEECH

The Oakland County ACLU defeated proposed changes to the West Bloomfield sign ordinance that would have, among other things, required candidates and residents to obtain permission and a sticker from the township before putting up a political candidate's sign on their lawn. Cooperating Attorney: Robert Shaya.

THE RIGHT TO DANCE

After Kalamazoo passed an anti-rave ordinance prohibiting dancing after 2 a.m., the Southwest Branch ACLU assisted an electronic music promoter known for his drug-free dances in developing a method to legally avoid the 2 a.m. restriction. In return, the promoter decided to sponsor a benefit dance for the ACLU. Cooperating Attorney: Jim Rodbard with help from law intern Isa Kasoga.

ROUGE PARK CASE

Our lawsuit against the City of Detroit in challenging the undercover operations of the Sixth Precinct that targeted gay men or men suspected of being gay in has been settled. We were successful on many fronts:

The City will now rescind its "annoying persons" ordinance and revise its solicitation ordinance to address constitutional concerns raised in our complaint; the arrest record of our clients regarding this incident will be removed from all police records, and the Sixth Precinct will receive sensitivity training regarding GLBT issues. In addition, the City of Detroit paid $170,000 in damages and attorney fees.

WHAT'S COMING UP AT THE ACLU

Oct. 4 – Barry Steinhardt, National ACLU Privacy & Technology Project Director, will be speaking in Ann Arbor

Oct. 11 – The ACLU of Michigan will be honored by the American-Arab Anti-Discrimination Committee at their annual dinner.

Oct. 16 – Town Hall Meeting on GLBT Immigration Issues
7 p.m. at the Drayton Avenue Presbysterian Church
2441 Drayton Avenue, Ferndale

The meeting, co-sponsored byAffirmations Lesbian and Gay Center, will present an overview of current United States immigration policy and how it's harmful to same-sex multi-national couples. Information will be provided regarding political asylum claims based on sexual orientation and proposed legislation to recognize same-sex permanent partners. Guest speakers will include Sharon Alexander of the Human Rights Campaign Fund and Leslie Bulbuk of Love Sees No Borders. For more information and to register, contact kaplan@aclumich.org or (313) 578-6812.

Oct. 19 – Renewable Gift Campaign begins

Nov. 1 – Domestic Partner Workshop in Ann Arbor
November 1, 2002, 9:30 to 4:00 p.m., at the University of Michigan's Michigan Union, in the Kuenzel Room.

The workshop is geared for employers, employee groups including unions, university staff and students, and local governments. Information will be provided regarding DP benefits, why they are needed, and how to provide such benefit program. Speakers include Matt Coles, director of the National ACLU LGBT Project, and representatives from DaimlerChrysler, Borders, Dow Chemical, and the City of Ann Arbor.
For more information and to register, contact kaplan@aclumich.org or (313) 578-6812.

Nov. 16 – ACLU Annual Dinner at the Rattlesnake Club, Detroit

See back page for more information.

***SAVE THIS DATE:* March 20, 2003–Women's Rights: The Law and Political Activism in Ann Arbor**

For more information on these events, call (313) 578-6801 or go to www.aclumich.org

What's Happening in the Capitol

IT TOOK UNTIL the middle of August, but the legislature finally finished its work and recessed for the summer. They came back on September 17th, but only for a few days before heading off on the campaign trail.

Term limits will have their most significant overall impact in this election year. Of the 38 current Senators, 28 are barred from running again. In the House, term limits and members vying for open senate seats have left 53 of the 110 seats open (without an incumbent in the race). Even the Governor's office is open due to term limits. This means that after November 5th, an unusually large number of legislators will know that they are not coming back in January.

The high turnover rate, combined with the possibility that there could be a shift in the balance of power between the Republicans and Democrats, means that we are likely in for a rather lively lame-duck session that could last until the end of December.

What can we expect? It is hard to say with any certainty, but these are a few of the things we should be concerned about:

MORE ANTI-CHOICE LEGISLATION – pro-life license plates, a change in the mandatory 24-hour waiting period and a new so-called "partial birth" abortion bill, at the very least.



William B. Flory

EFFORTS TO ADVANCE THE OTHER PARTS OF THE RELIGIOUS RIGHT'S AGENDA – charitable choice, school vouchers, or tuition tax credits, and the displaying of the Ten Commandments in public buildings.

No matter who wins on Nov. 5, remember – "vigilence is eternal."

Use your First Amendment Right–

Talk up the ACLU
to your friends, neighbors,
co-workers and acquaintances

Recruiting new members is the best way to ensure that the ACLU of Michigan will continue to be here to defend the Bill of Rights.
Clip this ad and use it to sign up a friend.

Then mail it to the ACLU of Michigan,
60 W. Hancock, Detroit, MI 48201
or go to www.aclumich.org

Join with nearly 300,000 Americans who contribute to the defense of liberty through an ACLU membership!

Enclosed is a check for:

☐ Basic $20 ☐ Contributing $35
☐ Supporting $75 ☐ Sustaining $125

☐ I do not wish to join the ACLU, but enclosed is my contribution of $_____.

☐ I'm already an ACLU member; here's an extra contribution of $_____.

NAME

ADDRESS

CITY / STATE / ZIP

PHONE

Your dues make you part of the National, Michigan and local organizations and are not tax-deductible.

One of the best things about summer is that both law and undergrad students have the time to work at the ACLU. They're a great asset to the organization and they get the chance to experience first-hand what the ACLU is all about. Our thanks and appreciation to our students for contributing so much to making this a wonderful summer for all of



▲ ***First row (left to right):*** **Kary Moss, Isa Kasoga**
Middle row: **Nayyer Siddiqi, Delphia Simpson, Elizabeth Norman, Suzanne HassanJustin Weyerhaeuser**
Back Row: **Mike Steinberg, Jay Lee, Michael Cecchini, Steve Blackburn, Nathan Livingston**

▼ ***(Left to right):***
Rob Goodspeed, Daniela Dover, Sam Ruben.
(Not pictured: **Leslie Ransdell, Erin Reese, Bryan Vanderhoof)**

Speak out symbolically.

Wear a peace button again.



SHOWN ACTUAL SIZE

www.peacebuttons.info

From the Executive Director

STAND UP AND VOTE!



Kary L. Moss, Esq.

TOO OFTEN we take the right to vote for granted. But the last Presidential election was a huge wakeup call.

Voters were not permitted to vote because their names were not on the list of eligible voters even though they had registered at motor vehicle offices; they were improperly purged from official lists; they were not able to vote because election workers failed to provide translation and language assistance at the polls. As the United States Commission on Civil Rights found, blacks were more likely than whites to have their ballots rejected and acknowledged that "injustice, ineptitude and inefficiency" plagued the election overall. The right to vote, and to have one's vote accurately and fairly counted, is as fundamental a right as we have in this country.

I can clearly remember the riots outside of polling places during the 1960s when African-Americans had to risk their lives to vote. It took years of dedicated effort, at substantial physical cost to many, to secure federal laws, such as the Voting Rights Act of 1965, that began to turn the promise of a vote into a reality.

But the right to vote has never been a dream fulfilled. We have had to fight hard to enforce the laws that were won with such difficulty. In 1965 the ACLU created the Voting Rights Project, which has had a major impact on civil rights in America, particularly in small towns and rural communities in the South where its work has been directly responsible for the election of countless black officials and, as a result, has had a profound impact on local, state and national politics.

The right to vote for the candidate of one's choice, the Supreme Court said in 1964 in *Reynolds v. Sims*, 377 U.S. 533, 555, "is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government. The legitimacy of elected office, and indeed the legitimacy of government itself, rests upon the fairness and reliability of the electoral process."

We now face a huge challenge with the advent of the Aschcroft administration. His responses to last year's atrocities threaten us in profoundly disturbing ways. The U.S.A. Patriot Act, rammed through Congress, gave the government expanded power to invade our privacy, imprison people with due process and punish dissent.

This has set a tone locally that presents an additional threat: For example, local police departments are considering enforcing immigration laws which could create a sub-population of people fearful of taking any criminal matter to the police for fear of indefinite detention; our libraries are being visited by the FBI; and, state legislators are still considering new wiretapping laws.

So show your thanks to the thousands who risked their lives to vote, the thousands who fought for the laws that protect the right to vote, the thousands who have fought to enforce those laws, and the thousands that come behind you and will vote some day. Show your concern that our democratic processes be treasured and respected. Vote in the November election.

DON'T MISS THIS!
NOVEMBER 16

The ACLU of Michigan Annual Dinner
will be at the Rattlesnake Club at River Place in Detroit.

Cocktail and silent auction hour at 6:30 p.m.
Dinner and program at 7:30 p.m.

Dinner $130 a plate • Table packages also available.
For information, call 313/578-6815 or go to www.aclumich.org

KEYNOTE SPEAKER

Detroit Mayor Kwame Kilpatrick

COURAGE UNDER FIRE HONOREES

Congressional Representatives
John Conyers Jr., Lynn Rivers, David Bonior and John Dingell
for their vote against the U.S.A. Patriot Act.

VOLUNTEERS OF THE YEAR

Michael and Peggy Pitt of Pitt, Dowty, McGhee and Mirer
for their devotion to the ACLU and the numerous hours
they have spent on our cases

MAKE A DONATION TO OUR SILENT AUCTION

Our annual dinner includes a silent auction.
We need donations of political and ACLU items,
tickets to sporting and cultural events, massages, pedicures, manicures
and gift certificates to restaurants or other items of value.
To arrange a donation to our silent auction,
please call 313-578-6815 or e-mail bbull@aclumich.org.

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