



ACLU

**AMERICAN CIVIL LIBERTIES UNION
of MINNESOTA**

CIVIL LIBERTIES NEWS

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Settlement reached in wrongful death case

This spring a settlement agreement was approved by Duluth City Council in the American Civil Liberties Union of Minnesota's case against the Duluth Police Department for the wrongful death of David Croud. In the settlement, the city agreed to pay \$100,000 to Croud's family to resolve the case.

On October 12, 2005, Croud was violently taken into police custody by officers of the Duluth Police Department. One witness who reported the police conduct stated that Croud was passive and that he could not "over-emphasize the amount of violence..." used by police. After handcuffing Croud and getting him partially into their squad car, police attempted to taser him in order to get him into the vehicle the rest of the way. Handcuffed, bleeding, and with a "spit hood" over his head, Croud was brought to St. Mary's Hospital where he was tranquilized and restrained on his stomach by the police, and then kept in that position over the objections of hospital security staff. Croud suffered respiratory arrest, then cardiac arrest and was placed on life support. He died a few days later in St. Mary's Hospital. The case against St. Mary's Hospital was resolved previously in a confidential settlement.

(Continued on page 4)

Freedom of Speech prevails in Burnsville

The American Civil Liberties Union of Minnesota achieved victory in their *Honk for Peace* case against the City of Burnsville on behalf of their client Robert Palmer. Palmer was charged with a misdemeanor violation of Minnesota's illegal honking statute in 2009, when he was cited after honking his car horn

52 times in support of an anti-war protest at a busy intersection during rush hour in front of Congressman John Kline's office in downtown Burnsville. Following a lengthy evidentiary hearing conducted on April 28, 2010, Dakota County District Court Judge Rex D. Stacey issued an order filed on May 7, 2010, dismissing the charges against Palmer as violating a Consent Decree obtained by the ACLU-MN last year in another illegal honking case.

In 2009 the ACLU-MN settled a similar case against the City of Burnsville when it issued a ticket to Barbara Gilliland for honking in support of the anti-war protestors. As part of the settlement agreement, the City of Burnsville agreed to dismiss the citation against Gilliland and issue no further citations to motorists who honk their horns to express their constitutionally protected free speech rights, except when necessary to preserve public safety.

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From the President

Wallace Hilke



Thoughts on freedom

"You value freedom – grant it to others."

Can you attribute this quote?

It sounds vaguely familiar...perhaps Lincoln or Jefferson or even Gandhi.

In fact, it was contained in the first fortune cookie that I have opened in about four years.

I find this quote and its origin intriguing in three very distinct respects.

First, from my perspective the quote is both perfectly accurate and extremely challenging. I do value freedom – so much so that my service on the ACLU-MN board has been one of the great pleasures in my life. How on Earth does the fortune writer know me so well? But the challenge to "grant" freedom to others is a bit daunting. Like every reader of this newsletter I have helped defend civil liberties by joining the ACLU-MN. My volunteer work and additional financial gifts also help support the cause. Still I worry that I haven't done enough and wonder if my efforts to grant freedom to others truly reflect the importance of freedom in my life.

Second, and on a much more personal level, I am troubled by the fact that a professional fortune writer effortlessly expressed the core sentiment that has eluded me. I have written thousands of words for ACLU-MN publications, much of which has been directed at exhorting readers to sustain and increase their support for our common cause. Yet, somehow, an anonymous wordsmith has bested me. The fortune's phrasing captures the precise sentiment that I want to convey: we join the ACLU-MN because freedom matters to us and we support it because it is the organization which most effectively protects liberties right here in Minnesota.

Third, this fortune represents the best of its genre. By its very vagueness it evokes a personal reaction. All ACLU members value freedom, yet they prioritize it in very individual ways. This has been amply demonstrated at our State Fair booth, where visitors vote on their favorite First Amendment Right. While Freedom of Speech has always been the plurality winner, the vote has been widely distributed. So too, our members place different priorities on the best way to grant freedom. Some believe our public education efforts are most effective because they grant freedom through knowledge; others treasure our lobbying efforts which grant freedom by changing oppressive laws; and many of our members are most enthusiastic about our litigation efforts which bring case-specific freedom to individuals whose Civil Liberties have been abrogated. Virtually all of our members understand that they are granting freedom to others through their support of the ACLU-MN.

To leave you with the paraphrased words of my anonymous literary superior:

You value freedom – grant it to others through your continuing support of the ACLU-MN.

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From the Executive Director

Charles "Chuck" Samuelson



Summer round-up

As we celebrate our summer vacations, your ACLU of Minnesota continues to work protecting our civil liberties. Our legal program continues with a half dozen law students and Terri Nelson, our legal counsel researching and managing a growing case load.

The TiZA case continues to hold our attention. As this is written we have responded to about 10 motions and are still waiting for our depositions to begin. This troubling breach of church state separation has occupied our attention for more than a year and one half. We anticipate that this case, if it progresses at its current pace will take another five years before it will be resolved.

Other cases are moving more swiftly. The City of Duluth agreed to pay the children of David Croud \$100,000 as compensation for David's death while in custody. The city has also taken steps to establish a civilian review board which will hopefully prevent other similar events in the future.

Our "conditions of confinement" case is in the hands of the judge as is our RNC literature seizure case. We are hopeful that we will be able to report two more victories to you in the next issue

of the newsletter. However, as you know these things proceed at their own timeline and the only thing we can be sure of is that there will always be ACLU cases in the courts.

While our lobbying efforts are dialed down for the season our public education efforts are ramping up. We had our booth at Pride and we need about 80 of you to volunteer for the booth at the State Fair. We will also need people to speak during Constitution Week in September.

Later in the fall we will need to begin recruiting members of our new legislative coalition. We will be fighting again for the elimination of the current civil asset forfeiture statute and replacing it with a law that will require the State to convict someone before the State takes their property.

We will need the good work and donations of all 10,000 of us in order to effect change in Minnesota. If you are interested in helping to make these things happen, please call Jana at 651.645.4097x123 or email her at jkooren@aclu-mn.org. Thank you for your continued support and enjoy the rest of your summer!

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From the legal briefcase

TiZA Update

There have been a number of developments in the ACLU-MN Establishment Clause lawsuit against Tarek ibn Ziyad Academy Charter School. In February, TiZA again tried to get our lawsuit dismissed, this time by filing a motion for judgment on the pleadings. In that motion, TiZA argued for the first time that they were entitled to 11th Amendment immunity from suit in Federal Court. The 11th Amendment provides that State entities – or “arms of the State” – are immune from lawsuits seeking money damages in Federal Courts. Our brief argued that, as a public charter school, TiZA is a local governmental unit, not an arm of the State. We also pointed out that our lawsuit only seeks injunctive relief, not money damages. The District Court agreed and denied the motion to dismiss on May 7, 2010.

In March, a group of TiZA students and their parents filed a motion to intervene in the case. They argued that our lawsuit threatened their First Amendment right to the free exercise of religion and that they should be allowed in to the case to assert their rights. We argued that any potential injury to their constitutional rights was speculative and, in any event, any injury they might suffer would come from TiZA – not the ACLU-MN. Because our lawsuit only seeks to order TiZA to comply with the Constitution, the only way that the students’ free exercise rights would be violated is if TiZA violates them in the future. If that happens, their remedy is to sue TiZA, not to intervene in this case. We also argued that the motion to intervene is not timely because the case has been pending for more than a year and the parents have had notice of the action since the case was filed. The District Court denied the parents’ motion on May 7, 2010 and the parents have appealed that decision to the 8th Circuit Court of Appeals. Briefs on the appeal will be due at the end of the summer.

We are also continuing to litigate various pretrial motions relating to discovery in the case and will

continue to provide case updates on our website at www.aclu-mn.org.

Volunteer attorneys for the case are Peter Lancaster, Ivan Ludmer, Christopher Amundson, Katie Pfeifer, Mark Wagner and Dustin Adams from Dorsey and Whitney LLP.

(continued from page 1)

Wrongful Death

The Croud family is satisfied with the settlement because it represents an acknowledgement by the City that David Croud should not have died in police custody and because the settlement proceeds will be used for the education of David's four young children.

While the ACLU-MN is satisfied with the settlement agreement we hope the community will remember the death of David Croud and will work to hold the police accountable for their actions to ensure that an incident like this will never happen again.

The ACLU-MN filed the wrongful death lawsuit on behalf of James Croud, brother of David Croud and trustee of Croud's estate.

Volunteer attorneys for the case are Al Goins of Goins Law Office, and John Goetz of Schwebel, Goetz & Sieben.

(continued from page 1)

Honk for Peace

In his decision dismissing Palmer's charges as a violation of that Consent Decree, Judge Stacey concluded that there was no evidence that Palmer's honking compromised public safety.

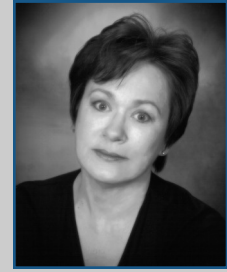
The ACLU is pleased with the outcome because the ruling confirms that the First Amendment is alive and well in Burnsville. Palmer and Gilliland were both represented by volunteer attorney Howard Bass of the Bass Law Firm in Burnsville.

“The First Amendment is alive and well in Burnsville.”

From the ACLU

Rebecca Rand

Minnesota's National Delegate



National Board Update

The ACLU National Board met April 17 and 18 in New York with President Susan Herman at the helm. Our first order of business was to welcome the brand new South Carolina affiliate to the fold. The new affiliate was represented by Vicky Middleton, Executive Director, and Rev. Joseph Derby, a new affiliate board member. The affiliate's membership was accepted with a unanimous vote. Executive Director Anthony Romero presented the projected financial results for 2010 and the proposed budget for 2010. A special thanks to the staff and finance committee who re-configured the budget materials to make it much more user friendly.

The new head of the ACLU offices in Washington DC, Laura Murphy, discussed with us the status of some ACLU lobbying efforts. Changes to the Patriot Act to strengthen civil liberties protections had traction in committee until the Christmas bomb scare which seems to have derailed progress. There has been some progress in the Senate to reduce disparities in the sentencing between crack and powder cocaine (the ACLU has been working on this for 17 years), but not much House support. Legal Director Steve Shapiro cautioned us not to expect any improvement in civil liberties prospects with a new Supreme Court appointment. As a non-partisan organization the ACLU does not endorse or challenge the nomination, but does prepare a thorough report on the nominee's civil liberties record.

Some recent victories include the reversal of the ideological exclusion of two visa applicants, Tariq Ramadan of Oxford University and Adam Habib of the University of Johannesburg. Both individuals

had previously been denied entry to the United States because of what they have written and spoke about. (and because they allegedly gave donations to so called terrorist organizations). These lawsuits were originally brought against Michael Certoff and Condolezza Rice, so they have been waiting a long time for their visas. They are both currently in the United States. Professor Habib recently spoke at Harvard University, and it was filmed by both Al Jazeera and Fox News.

Constance McMillian, the young woman denied the right to bring her same-sex date to prom by her Mississippi High School generated a lot of positive publicity. Despite all the publicity the school still succeeded in singling out McMillian by having two proms, one officially sponsored by the school that had only her and a few other people at it, while the rest of the school was at a private prom that McMillian was excluded from. She was however invited to be the Grand Marshall of the N.Y. Gay Pride Parade. In other GLBT legal news, the Arkansas law preventing co-habiting couples from adopting was declared unconstitutional and President Obama signed an ordering directing hospitals that receive federal dollars (almost all of them) that patients would be able to determine who may visit. A court also granted the ACLU a preliminary victory in the case where we were arguing that genes cannot be patented (after a private company patented a breast cancer gene) the decision is being appealed.

This year marks the 90th anniversary of the founding of the ACLU. In celebration there will be an *ice ream social* on Sunday, July 31 from 3 - 6 p.m. at my house. All are invited! Contact Doris at 651-645-4097 x126 for more information.

Greater Minnesota Racial Justice Project Update

Contributed by Audrey Thayer

It is hard to believe that it is already time to give another update on the Greater MN Racial Justice Project to our members. When reflecting back over the last months a few words come to mind, busy, intense, necessary and head shaking! The amount of telephone calls, intakes and contacts that happen in and around the area verify the need to continue to educate people on the U.S. Constitution.

As mentioned in the last newsletter, this project specifically provides education, advocacy and litigation, with a primary focus on advocacy and education. I am still surprised that everywhere I look I can see how injustice is woven into our political system at every level. I could go on for quite some time about this, but ultimately I want our members to know that this process takes a long time to address it at all levels.

I have written in the past on the lack of knowledge up here in regard to the 4th, 6th & 8th Amendment. We are convinced that if all communities fully understood and were provided solid education of our U.S. Constitution, the rates of incarceration, court appearances and fines would decrease. To achieve this goal, we strive to provide education on understanding the laws, the responsibilities of law enforcement, how the legal process works, consequences of actions, and even the hazards of *walking while Indian*.

To do all that we need your support, because the work is necessary and affects all of us.

Save the Date!
For an evening on the
1st Amendment
Thursday, Sept. 16
Sparkling Waters Restaurant
Bemidji, MN

Development Update

Contributed by Doris Rubenstein

Oh what fun it is to be a member of the ACLU here in Minnesota!

This year we celebrate the 90th anniversary of the American Civil Liberties Union. And what better way to celebrate than to bring together friends and members at parties across the State?

Thanks to Board Member Vance Opperman, major donors and prospects were treated to seats in a luxury box at a Minnesota Wild game in March. Others are enjoying his hospitality throughout the summer at Target Field to see the Twins play. What's more American than baseball and civil liberties?

Our first major event was held in May at the Duluth Depot Train Museum. Some thirty stalwarts from the North Shore gathered to make a toast and enjoy some cake with like-minded civil libertarians and hear ACLU-MN Executive Director Chuck Samuelson's update on issues and cases within Minnesota. Thanks to long-time member Iver Bogen for helping get the event off the ground, and Board Member Rebecca Rand for her gracious presence.

Festivities continued in June with a house party at the home of ACLU-MN Board Member Cassie Warner in St. Paul. Board Member TJ Pierret was co-host with members Perrin Lilly and former St. Paul Mayor and ACLU member George Latimer as Honorary Co-Hosts. Over forty members and friends contributed over \$3,800 to keep the ACLU -MN strong for the next fifty years. ACLU 90th Anniversary Parties are planned for Wayzata in July, Minnetonka in August, Rochester in September. Another is in the conceptual stage for Mankato. Thanks to Board Members Rebecca Rand and Susan Harper Ritten for hosting events in the Metro. If you would like to receive an invitation to any of these events, contact me at drubenstein@aclu-mn.org or 651-645-4097x126. The more the merrier!

Attention Civil Liberties Voters!

It's election season, and candidates need to hear from us. Voter forums and debates are great opportunities to raise the voice of civil liberties. Attend an event, and see who it is that is representing you in City Hall, in the Legislature or in Congress.

Often, audience members are asked to submit questions to the candidates. If you would like to know where the candidates stand, here are some sample questions to ask:

If elected, what would you do to:

Prevent police from racially profiling of people of color?

Protect innocent people from losing their property in a drug forfeiture?

Secure basic family rights for same sex couples?

Provide age appropriate, medically accurate sex education to students?

Address the problem of police keeping assets they seized without a court order?

Protect the rights of women to safe, legal and private medical care?

Exercise your right of free speech!

And exercise your right to vote!

Primary Election day is August 10, 2010

General Election Day is November 2, 2010

TRIBUTES

In Memory of Hulda Regehr Clark

b. Oct. 18 1928 d. Sept. 3 2009, a passionate supporter of civil liberties through lifelong membership in the ACLU

From her sister, Edna Bernstein

Tributes are contributions made to honor or remember special friends, family, colleagues and occasions.

To have your tribute appear in Civil Liberties News, please contact Molly at 651.645.4097 x127; mmiller@aclu-mn.org or 2800 Myrtle Ave, Suite 180, St. Paul, MN 55114

Volunteer at the State Fair

The ACLU of Minnesota is currently looking for volunteers to work at the ACLU booth during the Minnesota State Fair which runs from Aug. 26 — Sept. 6, at the State Fairgrounds in St. Paul.

Interested volunteers will be asked to attend a short training, will receive a ticket into the State Fair and a t-shirt as a small thank you.

If you are interested in volunteering at the State Fair please contact Jana Kooren at 651-645-4097 x123, jkooren@aclu-mn.org, or check online at www.aclu-mn.org for more details.

If you are not able to volunteer at the State Fair, we at least hope you can stop by our booth and pick up your very own Bill of Rights on a stick!

We've moved!!

Our new address is:

2300 Myrtle Ave

Suite 180

St. Paul, MN 55114

Please join us for an open house in our new office

- Meet ACLU-MN staff
- Enjoy refreshments
- Get free ACLU gear

Monday, August 16

4:30 - 7:00 p.m.

For questions or to RSVP please contact Jana at 651.645.4097 x123 or jkooren@aclu-mn.org

Civil Liberties News

2300 Myrtle Ave
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