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Judge finds CDC grant terms unconstitutional

by David Prybylo
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NEW YORK — Citing the actions of the review panel for Metrolina AIDS Project, federal district court Judge Shirley Wohl Kram ruled on May 11 that the restrictions placed on AIDS educational materials by the U.S. Congress are unconstitutional. Congress, led by Sen. Jesse Helms, had required that all AIDS educational materials developed or distributed using funds provided by the Centers for Disease Control (CDC) be reviewed by local Program Review Panels. The panels, appointed locally, determined whether or not materials might be considered offensive by a majority of persons outside the intended target population, and whether they directly encouraged or promoted sexual activity.

The Court's decision was the result of a suit brought against Health and Human Services Secretary Louis Sullivan by the national AIDS Project of the ACLU and the Center for Constitutional Rights in 1988. Those organizations represented Gay Men's Health Crisis (GMHC), the Hetrick Martin Institute, Horizons Community Services, and other AIDS service organizations from across the country. The State of New York also joined the suit as a plaintiff.

In ruling the CDC's grant terms unconstitutional, the Court called the regulations "subjective" and "imprecise," and referred to two separate incidents involving the Program Review Panel appointed to monitor the grant activities of Metrolina AIDS Project's gay men's educational program. In her decision, Judge Kram found that "it is impossible to explain why in August 1990 (the Metrolina AIDS Project's Program Review Panel) rejected one proposal which depicted two men draped in a flag and holding condoms, and another which was a safer-sex brochure that described a variety of sexual behavior engaged in by gay/bisexual men and the risks associated with each. It is also difficult to explain why a PRP required the Metrolina AIDS Project to remove the words 'fun,' 'exciting,' and 'sexy' from a brochure, as well as all references to gay men, leaving any reference to sexual orientation out of the brochure."

In August of 1990, the MAP panel, chaired by MAP board president Sister Mary Thomas Burke, was asked to approve the use of a poster developed by the San Francisco AIDS

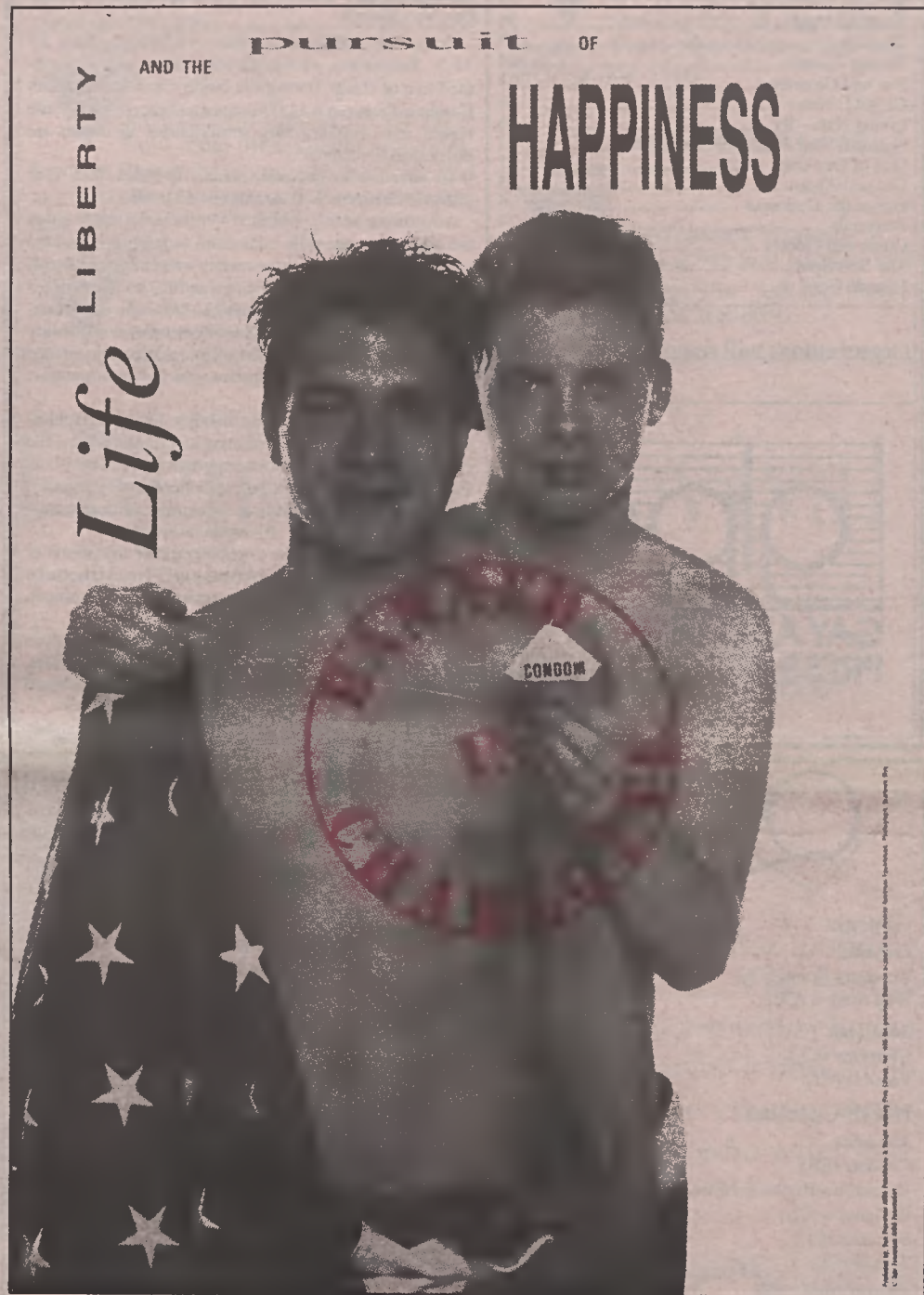
Foundation which depicted two young men draped in an American Flag and holding a condom. The text of the poster was "Life, Liberty, and the Pursuit of Happiness." The panel found the poster offensive and prohibited its use. At the same time, the panel was asked to approve use of a series of wallet-sized brochures developed by the health department in Tucson, Arizona which dealt separately with the issues of oral sex, anal sex, S & M, and sex options. Each brochure had a suggestive photograph intended to capture the reader's attention, and explained the risks associated with various types of sexual activity using non-scientific language (i.e., "fuck" instead of anal intercourse and "suck" in place of oral intercourse). Despite letters of support from the American Red Cross and the president of the Charlotte Psychiatric Association, the panel rejected the brochures. Panel member Linda Berne, a health educator at UNCC, said during the meeting that the brochures were useful and should be available to gay men. She voted to reject the materials, however, suggesting that the gay community itself fund them.

"It is impossible to explain why (MAP's PRP) rejected one proposal which depicted two men draped in a flag and holding condoms." -Judge Kram

In the spring of 1989, the panel was asked to approve a brochure developed by the Minnesota AIDS Project as part of its "Lifeguard" series. The brochure was only accepted after changes to the text were made, including the deletion of the words 'fun,' 'exciting,' and 'sexy' from a paragraph on masturbation. Also deleted from the brochure were any references to homosexual sex, "abstinence" was added to the top of the list of safe activities, and the title, "Play Safe," deemed too suggestive, was changed to "Play It Safe."

Kram also noted that the actions of program review panels had a further, more insidious effect on AIDS education efforts. AIDS educators, she noted, "are forced to censor themselves and concentrate on proposals that will pass the 'offensiveness' test with room to spare."

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Dialogue with police begins

by Dan Van Mourik
Q-Notes Staff

CHARLOTTE—Over 80 members of the gay and lesbian community attended a meeting with law enforcement representatives on Wednesday, June 3. The purpose of the meeting was to begin a dialogue but not necessarily solve any existing problems between the two groups.

"This is the first outcry I have personally heard from the gay and lesbian community." -Cmdr. Jones

A seven-member panel, representing the Charlotte Police Department, the Park Rangers and the Charlotte-Mecklenburg Community Relations Committee (CRC), had been assembled for a question/answer session to better understand gay and lesbian concerns from both perspectives. Invited, but not represented, were the Mecklenburg County Police Department, the Sheriff's Department and the District Attorney's office. Budget hearings were offered as an explanation for their absence.

Commander L.R. "Deacon" Jones of the

Charlotte Police Department stated that attendance at this meeting was the highest of any similar meeting ever held. Both First Tuesday (meeting organizer) and the CRC hope this was but the first of several such sessions. "This is the first outcry I have personally heard from the gay and lesbian community," Jones later stated.

The initial round of questions centered on entrapment in public parks. "The operational procedure is to respond to complaints of activity in the parks," Sergeant Porter of the Park Rangers stated several times during the evening. Response to citizen complaints was offered by the panel as answer to a variety of questions.

When asked if homosexuals were targeted for solicitation more than heterosexuals, Sgt. Porter stated that their efforts were "directed at anyone in violation of the law." When further pressed, he responded, "We do not keep statistics on homosexual, heterosexual, male or female." He did admit, however, that there is only one female plain clothes officer in their department.

Shifting to more general topics, the panel was asked if there were any programs in place, or under consideration, to sensitize officers to homosexuality and bisexuality.

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ACLU will investigate discrimination against MCSP

by David Prybylo
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CHARLOTTE—The American Civil Liberties Union of North Carolina (NCCLU) voted in June to accept the case of Metrolina Community Service Project (MCSP) and to sponsor possible legal action against the State of North Carolina. In May, MCSP had been threatened by the Alcohol Law Enforcement (ALE) division with punitive action if they held an annual fund-raiser involving simulated gambling. MCSP and the NCCLU contend that the ALE is selectively enforcing State regulations, thereby discriminating against gays and lesbians. Casino Nights, they say, are held routinely across the state to benefit a variety of organizations, yet no others have been threatened.

The case was first brought to the Charlotte chapter of the American Civil Liberties Union (ACLU) on June 9. In previous meetings with several individual attorneys, the board of

MCSP was encouraged to present their case to the ACLU for review. During the June 9 meeting, MCSP board president Robert Propst presented evidence to support MCSP's charge of discrimination, including an article from the June issue of Q-Notes and two articles from the Charlotte Observer which described a similar event held by the World 600 Children's Charity.

In a meeting on June 12, the Charlotte chapter of the ACLU voted unanimously to recommend accepting the MCSP action and passed this recommendation onto the NCCLU in Raleigh. On June 15, MCSP was notified that the NCCLU had voted to sponsor the MCSP case based on the recommendation from the Charlotte ACLU.

Propst was careful to point out that the ACLU attorneys have not yet agreed to file a suit. At its June 22 board meeting, the MCSP board members met with Jim Gronquist and

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