

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

[REDACTED]
**AMERICAN CIVIL LIBERTIES UNION;
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,**

Plaintiffs,

v.

ALBERTO GONZALES, in his official
capacity as Attorney General of the United
States;
ROBERT MUELLER, in his official capacity
as Director of the Federal Bureau of
Investigation;
[REDACTED] in his official capacity
as [REDACTED] Federal Bureau of
Investigation,

Defendants.

DECLARATION OF [REDACTED]

Civ. Action No. 3:05cv1256 JCH

SEALED CASE

DECLARATION OF [REDACTED]

I, [REDACTED] of [REDACTED] do declare:

1. I currently serve as the [REDACTED] of [REDACTED] [REDACTED] one of the plaintiffs in this case.
2. In my capacity as the [REDACTED] of [REDACTED] I know that the FBI served a National Security Letter ("NSL") on [REDACTED] I have reviewed the NSL served on [REDACTED] which demands that [REDACTED] provide "any and all subscriber information, billing information and access logs of a person or entity" related to a particular [REDACTED]. The NSL served on [REDACTED]

[REDACTED] prohibits any "officer, employee or agent . . . from disclosing to any person that the FBI has sought or obtained access to information or records under these provisions."

3. I am currently employed as the [REDACTED] of the [REDACTED] in [REDACTED]. I have been the [REDACTED] of the [REDACTED] [REDACTED] for [REDACTED] years. I have been a librarian for [REDACTED] years.

4. I received a Master's in Library Science from the [REDACTED] in [REDACTED].

5. I have been an active member of the Connecticut Library Association ("CLA") for [REDACTED] years. The CLA is a chapter of the American Library Association ("ALA"). I served as the [REDACTED] of the CLA from [REDACTED]. I also served a [REDACTED] term as the [REDACTED] of the [REDACTED] of the CLA from [REDACTED]. During my terms as [REDACTED] and [REDACTED] of the Connecticut Library Association, I regularly spoke out about and challenged policies endangering the intellectual freedom of libraries. In [REDACTED] I was honored with a Roll of Honor award from the National Freedom to Read Foundation. In addition, as the [REDACTED] it was my responsibility to communicate with state legislators about the importance of intellectual freedom in the library context. It was also my responsibility to lobby for increased protection of the privacy of library patrons and their records.

6. I currently serve as the [REDACTED] of the [REDACTED] of CLA. I have held this position for [REDACTED] years. My duties and responsibilities include keeping the [REDACTED] library community and the general public informed about intellectual freedom issues affecting both [REDACTED] and the nation. For example, I

regularly plan and participate in events and programs on important intellectual freedom issues, including the relationship between the government and libraries. As the [REDACTED] of the [REDACTED], it is also my duty and responsibility to speak out about any infringement to the intellectual freedom of libraries of which I have knowledge.

7. I am currently also a [REDACTED] for CLA; I have held this position for over [REDACTED] years. Under this program every state legislator in [REDACTED] is matched with a [REDACTED] librarian serving as a [REDACTED]. It is the job of [REDACTED] to inform their legislator about any legislative concerns facing their local library communities. As a [REDACTED] it is my duty to educate and lobby state legislators in my community about issues impacting libraries in general and intellectual freedom issues in particular. For example, every year the [REDACTED] [REDACTED] sponsor a Legislative Breakfast attended by state legislators where we present a docket of the most significant legislative issues facing our state libraries. This year's docket highlighted laws protecting the privacy of patron records. I advocated for a revision to the [REDACTED] state statute protecting the confidentiality of library records to clarify that privacy protections apply to all library records, not just circulation records. In particular, I advocated for privacy protection for computer records, including Internet records. As a [REDACTED] I argued that the laws protecting the privacy of both patron Internet and computer records and reading records needed to be strengthened in order to preserve the democratic function of libraries in our society.

8. In addition, it is my duty and responsibility as [REDACTED] of the Intellectual Freedom Committee to serve as a liaison between the [REDACTED] library

community and the American Library Association, as well as other libraries and library associations throughout the nation, with regard to intellectual freedom issues. In the course of my duties, I receive regular updates from the American Library Association about threats to the intellectual freedom of libraries. It is my job to look through this information and decide how to best disseminate it among the [REDACTED] library community. In this capacity, it is also my duty and obligation to notify the American Library Association, as well as other librarians and library associations outside of [REDACTED] about threats to intellectual freedom within the [REDACTED] library community.

9. I define "intellectual freedom" in the library context as the right of patrons to use public libraries as a space to explore different ideas, even controversial and unpopular ones, in privacy and absent the risk of government surveillance or monitoring. I believe that, in order to participate in the democratic process, citizens need access to a wide variety of viewpoints on different topics. I also believe that, in order for democracy to work, citizens must have access to a wide range of information on which to base their decisions, and that citizen's reading choices, like their voting choices, need to be private. I, therefore, believe that libraries have an affirmative obligation to protect the privacy of their patrons and their library records, both paper and electronic. I also believe that the need for such privacy is greatest in times of war or threats to national security when the risk of government intrusion is highest and the need for an informed and aware citizenry greatest.

10. As the [REDACTED] of the [REDACTED], I regularly participate in

discussions, both formal and informal, with other librarians and members of my community about challenges to the intellectual freedom of libraries. For example, as part of a [REDACTED] exchange Program, I travel to libraries in other localities to speak with library staff and trustees about threats to the intellectual freedom of libraries. In addition, I routinely participate in panels and debates on this issue. For example, in [REDACTED] I was a panelist in a discussion sponsored by the [REDACTED]. [REDACTED] the presentation was entitled [REDACTED]. [REDACTED] As part of this panel, I debated U.S. Attorney Kevin O'Connor over the appropriateness of the Patriot Act and its application to libraries.

11. I had no knowledge of the NSL provision of the Patriot Act until [REDACTED]. [REDACTED] was served with the NSL at issue in this case. I have never heard the NSL power discussed in any of the many forums relating to intellectual freedom and libraries I have attended. I did not know that a library could be construed as an "electronic communications service provider" under the NSL statute, or that the FBI could use NSLs to demand sensitive information about library patrons. To the best of my knowledge, the existence of the NSL provision and its applicability to libraries is not generally known within the library community. Now that I know about the NSL power, the gag is preventing me from educating my own library, CLA, ALA, and other libraries and library associations about the NSL power and the threat that it poses to the privacy of library patrons.

12. But for the gag, I would inform the staff and trustees of the library I direct, [REDACTED], that [REDACTED] had been served with an

NSL. I would work with the staff and trustees to develop procedures for responding to future NSLs were we to receive one directly.

13. But for the gag, I would also inform the patrons of the [REDACTED] [REDACTED] that [REDACTED] had been served with an NSL, and would explain the scope of the NSL power. It is my belief that the patrons using our library are generally not aware that the FBI can demand their electronic and paper records without their knowledge and consent. I believe that it is my duty as [REDACTED] of the [REDACTED] to inform the patrons using our library of the NSL power so that they may make informed choices about their library usage.

14. It is my job as the [REDACTED] of CLA's [REDACTED] to disseminate information about threats to intellectual freedom in [REDACTED]. But for the gag, I would disclose the fact that libraries can be served with NSLs, and would engage in discussions with other libraries and library associations, both locally and nationally, about the threat that NSLs pose to intellectual freedom. I believe that other libraries and library organizations have a right to know this fact so that they may make informed choices about the ways in which they maintain library patron records and provide Internet access to the public.

15. If libraries knew that NSLs could be used to target libraries, they would want to develop specific procedures for responding to the receipt of an NSL. Developing clear procedures for responding to NSLs is particularly important so that libraries do not inadvertently incur penalties or sanctions. But for the

gag, I would contact other libraries and library associations, both locally and nationally, to discuss and develop policies and procedures for responding to NSLs. Because of the gag, I am frightened to have such a discussion for fear that it would raise red flags within the government and I would subject [REDACTED] and myself to criminal sanctions.

16. In my capacity as [REDACTED] of CLA's [REDACTED], I am frequently asked questions about the application of the Patriot Act to libraries. For example, in the past week alone, I received two phone calls, one from a representative of a library and one from a representative of a state-wide consortium of libraries. But for the gag, I would have told these colleagues about the existence of the NSL provision and the fact that libraries can be served with NSLs. As a result of the gag, I evaded some of the questions posed to me by these callers. I believe that such basic information about NSLs would be useful for state libraries to know. I further believe that it is my ethical obligation as the [REDACTED] of the [REDACTED] to openly and honestly answer such inquiries. I am, however, afraid that were I to even mention the word "NSL" in response to such an inquiry, I would be accused of violating the gag provision, and would subject both the [REDACTED] and myself to extremely serious government sanctions, including, possibly, imprisonment. I have, therefore, remained silent about any and all aspects of the NSL power, including its mere existence.

17. But for the gag, I would organize a program about the Patriot Act and the

use of NSLs in the library context for CLA's Annual Conference to be held in the spring. In the past, the Annual Conference has included panels on pressing civil liberties issues. In addition, in the past, CLA has invited members of the FBI to participate in such panels. I believe that a program about the Patriot Act and NSLs would be useful to other librarians and to the public. I have, however, restrained myself from organizing this program because I think it would expose me to suspicion by the courts or the FBI that I was discussing the NSL received by [REDACTED] in violation of the gag.

18. The gag is also preventing me from discussing the fact that [REDACTED] [REDACTED] received an NSL with state legislators. As a [REDACTED] for CLA, it is my duty to discuss precisely this type of issue with state legislators. But for the gag, I would contact my partner state legislator and inform her that [REDACTED] has received an NSL. But for the gag, I would also inform my local legislator about the concerns I have about NSLs and their impact on patron privacy. Because of the gag, I am unable to even mention this issue to local legislators or to ask for assistance in handling this matter.
19. The gag provision has also made it difficult for me to maintain normal communications with my staff, business colleagues, family members, and friends. When I receive or make phone calls with my lawyers about this case, I have had to make up excuses about who I am speaking with and why. I have had to operate in secret around my staff in a way that is out of the ordinary and that makes me uncomfortable. I have experienced stress as a result of receiving the NSL but am, because of the gag provision, unable to discuss this stress with my family, friends, or colleagues.

20. The gag is also preventing me from educating the general public about the relationship between libraries and the Patriot Act powers generally, and the NSL provision specifically. Based on my long-standing history in public education efforts related to the intellectual freedom of libraries, it is my belief that the public has an interest in learning that libraries may be served with NSLs. In my three decades of experience as a librarian, I have learned that library patrons take the right of privacy within libraries very seriously. I believe that library patrons use books and computers within libraries under the assumption that what they read and view is private and free from government monitoring. I believe that if American citizens were to learn that the government had served a library with an NSL, it would influence the ongoing public debate about the Patriot Act. But for the gag, I would be an active participant in this debate within my own community.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed on this day, August 15, 2005.

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