



FREEDOM TO READ FOUNDATION NEWS

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Vol. 31, No. 4

December 2006

Chris Crutcher headlines FTRF reception in Seattle

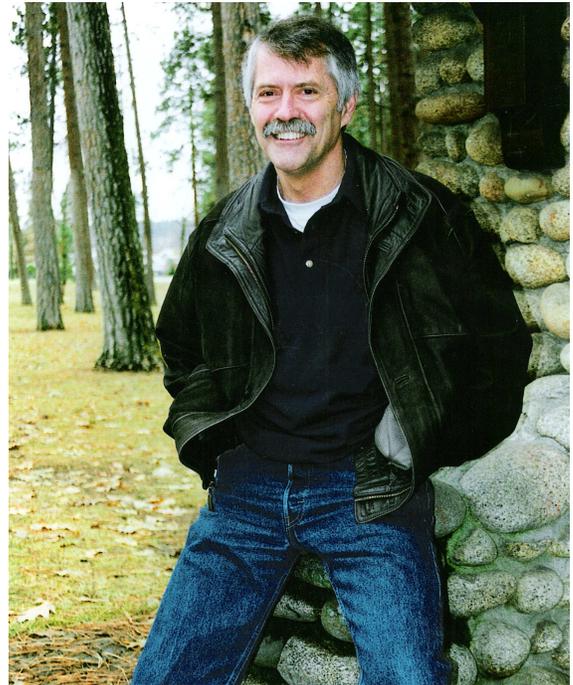
Chris Crutcher, who has been one of the most frequently challenged authors over the past two decades, will be the featured speaker at a fundraiser for the Freedom to Read Foundation on Sunday, January 21. Doors will open at 5:45, and Crutcher's talk will begin at 6:30 p.m., to be followed by a book signing. The event will take place at the Seattle Public Library, 1000 Fourth St.

The Spokane-based Crutcher, whose books include "Whale Talk," "Athletic Shorts," "The Sledding Hill" and "Running Loose," is one of the most popular authors in the young-adult genre. He is the winner of YALSA's 2000 Margaret A. Edwards Lifetime Achievement Award, *Writer Magazine's* 2004 Writers Who Make A Difference Award, the National Council of Teachers of English's 1998 National Intellectual Freedom Award, and the prestigious ALAN Award, given by the Assembly on Literature for Adolescents.

According to FTRF president John W. Berry, "Chris Crutcher is a remarkably strong voice for young adult readers and for intellectual freedom. He has stood with schools and libraries as they have faced challenges to his materials. He's an advocate as well as a writer. More to the point, he's a truly engaging speaker with great stories about writing, reading, and intellectual freedom."

Refreshments will be provided. Space is limited. The suggested donation to attend the event is \$25.

- You may use the secure online donation form to donate now. Go to <http://tinyurl.com/y1vzts>. (Please indicate in the comments section that the donation is to attend the Chris Crutcher Fundraiser.)
- You may call the FTRF office with your credit card information. Call (800) 545-2433 x4226.
- You also may write a check, payable to the Freedom to Read Foundation (memo line: Chris



Crutcher Fundraiser) and mail it to FTRF, 50 East Huron Street, Chicago, IL 60611.

Author Chris Crutcher

For more information, visit www.ala.org/chriscrutcher or contact Jonathan Kelley at jokelley@ala.org or (800) 545-2433 x4226.

Copies of Crutcher's books will be available for purchase at the event, and all donations from sales will go to the Freedom to Read Foundation. Visit Chris Crutcher's homepage at www.chriscrutcher.com to learn more about his life and work.

The event is being held in conjunction with the 2007 American Library Association Midwinter Meeting, and is sponsored in part by HarperCollins.

2007 board election nominations invited

Nominations are currently being accepted for the 2007

Freedom to Read Foundation Board of Trustees election. Six positions on the 2007–2008 FTRF Board of Trustees will be filled in the election to be held April 2–May 1, 2007. The persons elected will serve a two-year term, beginning at the close of the 2007 American Library Association Annual Conference, and continuing through the end of the 2009 Annual Conference. Trustees are required to attend two one-day meetings per year, which are held in conjunction with the ALA Annual Conference and Midwinter Meeting.

Chairing the nominating committee is Francis Buckley, Arlington, Virginia. The other committee members are Anne Heanue, Alexandria, Virginia; and Candace Morgan, Portland, Oregon.

Only FTRF members are eligible to seek election to the Board. Nominations should be sent by January 15, 2007, to ftrf@ala.org or faxed to (312) 280-4227. You may also mail nominations to the Freedom to Read Foundation, Attn: Francis Buckley, 50 E. Huron St., Chicago, IL 60611. Alternatively, FTRF members may be slated for candidacy by petition by submitting 25 signatures of current FTRF members in support of the candidate. Names of petition candidates, and the required signatures to support each, must be received by the Executive Director of the Foundation no later than March 1, 2007 at the email or mail address above.

New Litigation

Texas Supreme Court dismisses church defamation suit

The Texas Supreme Court denied review to the Local Church in its defamation suit against publisher Harvest House. FTRF filed an *amicus curiae* brief urging the court to deny review and protect the right to publish controversial materials without the “chilling effect” of frivolous suits.

A religious group called The Local Church filed a libel action against authors John Ankerberg and John Weldon and their publisher, Harvest House, after the Local Church was included in the authors’ work, *The Encyclopedia of Cults and New Religions*, claiming that

their inclusion in a work about “cults and new religions” was defamatory. The Texas Court of Appeals dismissed the case, holding that a “reasonable reader” would not believe that all of the characteristics cited applied to all of the groups listed and finding that the determination that a group is a cult is not actionable because such a finding depends on an individual’s religious beliefs. The Local Church then appealed that ruling to the state Supreme Court.

FTRF joined the Association American of Publishers (AAP), the American Booksellers Foundation for Free Expression (ABFFE), and the American Association of University Presses (AAUP) to file its brief with the Texas Supreme Court, urging that body to uphold the Court of Appeals’ decision to dismiss the lawsuit. The brief argued that if the case were accepted for review by the Court and reversed, The Local Church’s “untenably expansive interpretation of the ‘of and concerning’ requirement would open authors and publishers of compendia and survey texts to liability for general introductory commentary that no reasonable reader would take to apply to every person or group discussed in the book.” It also noted The Local Church’s “history of suing its critics” and discussed the “‘chilling effect’ of meritless libel suits” to publishers and distributors of material.

The brief, which was written by FTRF Trustee (and AAP General Counsel) Jonathan Bloom, can be found on the AAP web site at:

www.publishers.org/press/pdf/harvesthouseamicus.pdf

FTRF files *amicus* brief in Minn. video game case

On November 29, the Freedom to Read Foundation joined nine other organizations to file an *amicus* brief with the 8th Circuit Court of Appeals in *Hatch v. Entertainment Software Association*, a suit challenging Minnesota’s violent video games statute. The brief argues that video games—even those with violent content—are protected by the First Amendment. It adds that including violent speech in the category of “harmful to minors” would end up affecting far more than just video games. Additionally, the brief argues that First Amendment–protected materials may not be restricted based on potential emotional or psychological impact. Finally, we addressed the question of

using private ratings systems to define speech. The brief argues that that practice is unconstitutional, and that the specific ratings system referred to in the statute is unconstitutionally vague. (This last issue is faced by libraries often; ALA has an interpretation of the *Library Bill of Rights* on the topic that can be found at <http://tinyurl.com/y3s8hr>.)

Background: On July 31, Judge James M. Rosenbaum of the U.S. District Court of Minnesota permanently enjoined the violent video games statute, signed in May by Governor Tim Pawlenty. The law would have restricted the sale or rental of games rated “M” or “AO” by the Entertainment Software Rating Board (ESRB) to anyone under 17 and, in contrast to other state video games bans, would have imposed a \$25 fine on any minor purchasing or renting a restricted game. It also would have required retailers to post signs explaining the restriction. In his ruling, Judge Rosenbaum wrote, “There is a paucity of evidence linking the availability of video games with any harm to Minnesota’s children at all.” The court also found it unconstitutional to delegate power to ESRB’s private rating system and found the requirement that retailers post signs was compelled speech. The state appealed the ruling to the 8th Circuit.

This case is one in an increasingly long list of state and municipal statutes that have been challenged in the courts for violating the First Amendment. In every case (including a decision on November 29 in Louisiana, a case in which FTRF was not a participant), the statutes were found unconstitutional.

Updates

7th Circuit upholds decision against Illinois sexually explicit game law

On November 27, a three-judge panel of the Seventh Circuit Court of Appeals unanimously affirmed Judge Matthew Kennelly’s decision to strike down the Illinois Sexually Explicit Video Game Law, one of two parts of a statute passed in 2005 to limit availability of video games. In its decision, the court found the various provisions of the law violated the First Amendment.

The Sexually Explicit Video Game Law was one of two portions of Illinois House Bill 4023. The other portion—the Violent Video Game Law—also was struck down by Judge Kennelly on December 2, 2005, but that part of the decision was not appealed by Illinois Attorney General Lisa Madigan.

In its November ruling, the appeals court found the law overall to be overbroad and not narrowly tailored to achieve the purposes it purported to try to solve; that the labeling requirement (a four-inch-square label covering much of the game box indicating it was for those 18 and older) was not narrowly tailored; and that the signage requirement (that distributors would have to carry brochures and large signs about the Entertainment Software Rating Board’s rating system) constituted compelled speech.

Also on November 27, Judge Kennelly noted that the state had yet to pay over \$500,000 in legal costs to the plaintiffs’ attorneys, Jenner & Block (which also represents the Freedom to Read Foundation). Weeks later, with still no method of payment outlined, Judge Kennelly intervened again, accusing the state of “shrugging and finger-pointing.” Finally, on December 18, the state outlined the departments from which various funds would come.

Forensic Advisors v. Matrixx appeal

In the previous issue of *Freedom to Read Foundation News*, we reported that a state appeals court in Maryland decided to allow the company Matrixx Initiatives to go forward with its deposition against Timothy Mulligan and his company, Forensic Advisors, as part of Matrixx’s attempt to discover the identity of an online critic of Matrixx. Matrixx suspected the critic might be a subscriber to Mulligan’s financial newsletter, *The Eyeshade Report*.

Mulligan decided to appeal that decision to the state’s highest court, the Maryland Court of Appeals, which on December 14 granted *certiorari*. Briefs in the case are due February 2, 2007. FTRF participated in an *amicus* brief at the appellate court level, arguing that the right to receive information anonymously is protected by the First Amendment (a principle with great implications for library users).

Other News

Massachusetts library settles suit with homeless patrons

A public library in Massachusetts in December settled a case against it regarding the right of library patrons residing in homeless shelters to have the same borrowing privileges as other residents. Three individuals residing in homeless shelters, the Massachusetts Coalition for the Homeless, and the Central Massachusetts Housing Alliance filed suit to challenge a Worcester Public Library policy that restricted the borrowing privileges of persons residing in homeless shelters. Borrowers living at shelters were limited to borrowing two items at a time.

With the settlement, the library agreed to abandon the policy, and the city will host a speaker on homelessness.

Washington State ACLU files suit against Internet filtering for adult users

In November, three library users and the Second Amendment Foundation, represented by the American Civil Liberties Union of Washington State, filed suit in federal court to challenge a library system's policy of using a restrictive Internet filter to bar access to information on its computers and refusing to honor requests by adult patrons to temporarily disable the filter for sessions of uncensored reading and research. The library users claimed their attempts to access websites on teen drug use, art galleries, and a personal blog on MySpace were blocked by North Central Regional Library's (NCRL) filters. The Second Amendment Foundation said NCRL blocked access to its online magazine, *Women and Guns*.

This is the first known legal challenge to a library's use of filtering software in the wake of the U.S. Supreme

Court's 2003 CIPA decision, in which the Court held that Congress' filtering mandate for libraries receiving federal funding for Internet services was constitutional, with the understanding that the filters could be unblocked for adult Internet users upon request.

The case is Sarah Bradburn et al. v. North Central Regional Library District. FTRF is not currently a participant in this lawsuit.

Reutty named recipient of Downs Award

New Jersey Librarian Michelle Reutty, whose refusal to turn over library borrowing records without a subpoena garnered her national attention and disciplinary action by the Hasbrouck Heights Public Library board, has been named the recipient of the 2006 Robert B. Downs Intellectual Freedom Award. The award is given annually by the University of Illinois' Graduate School of Library and Information Science to "individuals or groups who have furthered the cause of intellectual freedom, particularly as it impacts libraries and information centers and the dissemination of ideas." The award will be presented during the 2007 American Library Association's Midwinter Meeting in Seattle. Reutty has since left Hasbrouck Heights to become the director of the Free Public Library in Oakland, New Jersey.

Freedom to Read Foundation News (ISSN 0046-5038) is issued quarterly to all members of FTRF. Regular membership in the Freedom to Read Foundation begins at \$35.00 per year for individuals and \$100.00 per year for organizations. Student membership is \$10.00 annually. Contributions to the Foundation should be sent to: Freedom to Read Foundation, 50 E. Huron St., Chicago, IL 60611. You also can contribute by phone at (800) 545-2433 x4226 or at www.ftrf.org/joinftrf.html. All contributions are tax-deductible.

The Freedom to Read Foundation is a First Amendment legal organization affiliated with the American Library Association.