

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
AT LAFAYETTE**

<p>AARON GUIDRY, <i>et al.</i>,</p> <p>Plaintiffs,</p> <p>v.</p> <p>TERESA ELBERSON, <i>et al.</i></p> <p>Defendants.</p> <p><i>c/w</i> _____</p> <p>AMBER ROBINSON and MATTHEW HUMPHREY,</p> <p>Plaintiffs,</p> <p>v.</p> <p>TERESA ELBERSON,</p> <p>Defendant.</p>
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CIVIL ACTION NO. 6:18-CV-01232

JUDGE ROBERT SUMMERHAYS

MAG. JUDGE PATRICK HANNA

COMPLAINT IN INTERVENTION

1. This is an action pursuant to 42 U.S.C. § 1983 for a temporary restraining order, preliminary and permanent injunctions, declaratory relief and nominal damages to redress Defendant’s violations of Plaintiffs’ rights as protected by of the First and Fourteenth Amendments to the United States Constitution.

2. Specifically, Plaintiffs seek emergency judicial review of Defendant’s policies requiring Plaintiffs to disavow affiliation with Drag Queen Story Time as a precondition of using space at the Lafayette Public Library. The actions of Defendant prevent Plaintiffs from exercising

their First Amendment right to freedom of speech by imposing a viewpoint-based prior-restraint on the exercise of that fundamental constitutional right. Defendant forbids Plaintiffs' speech in a public forum she controls because of Plaintiffs' viewpoint and the content of their speech. That discrimination is constitutionally impermissible.

JURISDICTION AND VENUE

3. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331.
4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b).
5. Declaratory relief is authorized pursuant to 28 U.S.C. § 2201 and 28 U.S.C. § 2202. A declaration of the law is necessary and appropriate to determine the respective rights and duties of the parties to this action.

THE PARTIES

6. Plaintiff Amber (“Aimee”) Robinson is an individual of the age of majority presently residing in Lafayette Louisiana, within the jurisdiction of the Western District of Louisiana. Plaintiff Robinson has reserved a room at the Lafayette Public Library for use on December 22, 2018. Plaintiff Robinson is unable to use the room unless she signs a form certifying she is not using the room for Drag Queen Story Time–related purposes by Friday, December 21, 2018. Plaintiff Robinson objects to the form and will not sign it. She cannot proceed with her library room reservation without Court intervention.
7. Plaintiff Matthew Humphrey is an individual of the age of majority presently residing in Youngville Louisiana, within the jurisdiction of the Western District of Louisiana. Plaintiff Humphrey has a room reserved at the Lafayette Public Library on January 2, 2019. Plaintiff Humphrey was required to sign a form attesting that he is not using the room for Drag Queen Story Time-related purposes to be able to use a room at the library.

8. Both Plaintiffs Robinson and Humphrey are members of Acadiana Supporters of Drag Queen Story Time. They would like to use the public library for the purposes of planning a Drag Queen Story Time and for holding such an event. They are unable to do so at present.
9. Defendant Teresa Elberson is the Director of the Lafayette Public Library. She is the final policymaker for Lafayette Parish Consolidated Government for the purposes of establishing policies and procedures governing the use of the Lafayette Parish Library system. Defendant Elberson is presently disallowing use of library property for the purposes of holding or planning Drag Queen Story Time.

FACTS

10. The Lafayette Public Library planned a “Drag Queen Story Time” as part of its official programming in the month of October 2018, in conjunction with several Lafayette community groups.
11. Plaintiffs Warriors for Christ filed the above-captioned frivolous and vexatious action seeking to enjoin the Library event.
12. Defendant “voluntarily agreed to stand down on planning a Drag Queen Story Time for the duration of this lawsuit.” Rec. Doc. 94.
13. On its face this minute entry presumably would mean only that the Library itself would “stand down” on planning Drag Queen Story Time.
14. However, it was subsequently made clear that Defendant was in fact banning any presence of Drag Queen Story Time¹ in any Lafayette Public Library space, including prohibiting use of Library space by wholly private groups. Rec. Doc. 124.

¹ Note that the form utilized by Defendant actually prevents “Drag Queen Story Hour.” Plaintiffs in Intervention are not affiliated with “Drag Queen Story Hour,” see www.dragqueenstoryhour.org. They are planning an event titled “Drag Queen Story Time,” which—although similarly named—is separate and distinct.

15. Defendant generated a form that she is now requiring every individual seeking to use library space to sign. That form requires attestation that “the purpose of your use of the Lafayette Public Library’s meeting room does not pertain in any way to ‘Drag Queen Story Hour,’ directly or indirectly.”
16. The form further advises members of the public that if they use the Library for such purposes they may cause the Library to be in breach of its agreement with this Court and the members of the public will be sued by the Defendant and Lafayette Consolidated Government.
17. If a member of the public does not sign the form 24-hours prior to the planned event their event will be cancelled by the Defendant.
18. Defendant agrees that the public library is a limited public forum for First Amendment purposes, and therefore that any restriction on speech in that forum must withstand exacting constitutional scrutiny. Rec. Doc. 126 at 6. In this instance the government ban on speech singles out a particular point of view and content for target—supporters of Drag Queen Story Time. This targeted, viewpoint-based discrimination is the most insidious of all government restrictions on speech, and therefore is subject to the most exacting constitutional analysis-- strict scrutiny.
19. Defendant’s actions cannot withstand constitutional scrutiny.

CAUSES OF ACTION

20. Plaintiffs reallege and reincorporate, as though fully set forth herein, each and every allegation contained above.

21. The Defendant's requirement that individuals seeking to use Library space sign a form disavowing affiliation with Drag Queen Story Time as a precondition for use of public space and also under penalty of potential legal liability violates the First Amendment.
22. The Defendant's refusal to allow the public to use library rooms for individuals planning Drag Queen Story Time, holding Drag Queen Story Time or supporting Drag Queen Story Time violates the First Amendment.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, having no adequate remedy at law, pray for the following:

1. That a temporary restraining order, and in due course preliminary and permanent injunctions, issue restraining and enjoining Defendant and her employees and agents from disallowing use of public library space for the purposes of holding, planning or supporting Drag Queen Story Time;
2. That a declaratory judgment be issued holding that Defendant's actions herein violate the First Amendment;
3. That Plaintiffs be awarded nominal damages;
4. That reasonable attorneys' fees, expenses and costs be awarded to Plaintiffs pursuant to 42 U.S.C. § 1988 and any other applicable provision of law;
5. That this Court grant all equitable and further relief which the Court deems just and proper.

Respectfully Submitted,

/s/ Katie Schwartzmann

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