

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ANAKA HUNTER,)	
)	
Plaintiff,)	
)	
v.)	No. 4:12-cv-4
)	
CITY OF SALEM, MISSOURI, a)	
municipality and political subdivision of the)	
State of Missouri,)	
)	
BOARD OF TRUSTEES, SALEM PUBLIC)	
LIBRARY, a body corporate, and)	
)	
GLENDIA WOFFORD, individually and in)	
her official capacity as Director of the Salem)	
Public Library;)	
)	
Defendants.)	

COMPLAINT

COMES NOW Plaintiff Anaka Hunter (“Hunter” or “Plaintiff”) and alleges as follows:

INTRODUCTION

1. Beginning in July 2010, Hunter conducted research at the Salem Public Library on indigenous American tribes and their spirituality. Many of the websites she attempted to access were blocked by the Internet filtering system employed by the Library because they were improperly categorized as the “occult” and “criminal skills.” Hunter asked to have the websites unblocked and challenged the Library’s policies, practices, and customs of filtering out information about minority viewpoints on spirituality. Library officials have refused to stop their discriminatory policies, practices, and customs.

2. Plaintiff brings this cause of action for violations of her First Amendment rights, made applicable to the Defendants through the Fourteenth Amendment. In particular, the Library's policy of blocking content based on viewpoint is unconstitutional. Additionally, the policies, practices, and customs of blocking information about minority religions based on viewpoint violate the Establishment Clause by giving official preference to certain religious viewpoints while blocking others. Further, the Library significantly burdens the First Amendment rights of patrons who ask to have filters removed, or to have specific websites or pages unblocked, when content is wrongly overblocked by filters installed and maintained in purported compliance with the Children's Internet Protection Act, 20 U.S.C. § 9134(f) ("CIPA"), and MO. REV. STAT. § 182.827. Thus, CIPA and MO. REV. STAT. § 182.827.3 are unconstitutional as applied by the Library.

3. Pursuant to 42 U.S.C. § 1983, Plaintiff seeks a declaration that the Library's policies, practices, and customs of blocking religious content based upon its viewpoint are unconstitutional, an injunction enjoining Defendants from continuing to block religious content based upon its viewpoint, and nominal damages for past deprivation of Plaintiff's constitutional rights.

JURISDICTION AND VENUE

4. This Court has jurisdiction pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1343, and 42 U.S.C. § 1983.

5. Venue in this Court is proper pursuant to 28 U.S.C. § 1391(b)(1) and E.D. Mo. L.R. 2.07(A)(1), (B)(2) because at least one Defendant resides in Dent County, Missouri, and the events giving rise to this Complaint occurred in Dent County, Missouri.

PARTIES

6. Plaintiff is an adult resident of Salem, Missouri. Plaintiff pays property taxes to the City of Salem.

7. Salem Public Library is a public library located in Salem, Missouri. It is established pursuant to MO. REV. STAT. § 182.140 and its primary source of funding is property taxes collected by City of Salem, Missouri.

8. Defendant City of Salem, Missouri created the Board of Trustees for Salem Public Library and the City's Mayor appoints the members of the Board of Trustees. City of Salem is a municipality and political subdivision of the State of Missouri.

9. Defendant Board of Trustees of the Salem Public Library is a body corporate that operates the Salem Public Library and is authorized by statute to sue and be sued. MO. REV. STAT. § 182.200.

10. Defendant Glenda Wofford is a resident of Dent County, Missouri, and the director of the Salem Public Library. She is sued in both her individual and her official capacities.

11. At all times relevant to this complaint, Defendants acted under the color of law.

FACTUAL ALLEGATIONS

12. Beginning in or about July 2010, Plaintiff Hunter conducted research at the Salem Public Library on Native American tribes and their spirituality.

13. Hunter's research methods included accessing the Internet from computers made available for public use by the Library.

14. Hunter discovered that the Internet sites she wanted to access for

information about Native American spirituality and related spirituality were blocked.

15. Hunter first brought the improper blocking to the attention of Wofford in or about July 2010, by requesting that the Internet sites she sought to view on Native American cultural and religious history and the Wiccan Church be unblocked for her research.

16. Wofford responded that there was nothing she could do and that it was up to the filtering system which websites library patrons could view.

17. Subsequent to her initial request, Hunter sought to have a particular website pertaining to the lives of prominent Native American women unblocked.

18. In response to this request, Wofford unblocked a single page of the site, but other sections of the website remained blocked.

19. Subsequently, Hunter raised the issue of filtering again with Wofford and stated that she thought the filtering of the websites she sought to view was improper and the classification of Native American cultural and religious history and practices as the “occult” and “criminal skills” was misleading and derogatory.

20. Wofford responded that it was up to the filtering system which websites library patrons could view and that she only allows people to view blocked websites if it pertains to their job, if they are writing a paper, or if she determined that they otherwise have a legitimate reason to view the content.

21. Wofford additionally asserted that she had an “obligation” to call the “proper authorities” to report those who were attempting to access blocked sites if she thought they would misuse the information they were attempting to access.

22. Wofford’s assertion that she would be obligated to notify authorities caused

Plaintiff to be reasonably concerned that she would be reported to the police if she continued to attempt to access websites about Native American cultural and religious history and the Wiccan Church.

23. Hunter attended a meeting of the Board of Trustees for the Salem Library on November 8, 2010. At the meeting, she voiced her concerns about the filtering and the policies, practices, and customs that block religious content based upon its viewpoint.

24. After Hunter described her experiences and outlined her complaints, a board member asked if Hunter whether she thought the Board or Library staff are prejudiced.

25. Hunter did not answer directly, responding simply that she thought the filtering was unfair.

26. A member of the Board responded that the Library's Internet Content Filtering ("ICF") system would not change, adding, "If that's all, we have business to discuss."

27. The Library receives federal Library Services and Technology Act ("LSTA") grants.

28. Because it receives LSTA grants, the Library is obligated to comply with CIPA.

29. CIPA requires that libraries maintain a policy and ICF systems to prevent children from accessing "visual depictions" that are obscene, child pornography, or harmful to minors.

30. The Library, like all other public libraries in Missouri, is also obligated to comply with MO. REV. STAT § 182.827.3.

31. MO. REV. STAT. § 182.827.3 requires that libraries “limit minors’ ability to gain access to material that is pornographic for minors.”

32. The Library either equips its publicly accessible Internet-connected computers “with [ICF] software... or purchase[s] Internet connectivity from an Internet service provider that provides [ICF] filter services to limit access to material that is pornographic for minors” in order to comply with CIPA, 20 U.S.C. § 9134(f), and MO. REV. STAT. § 182.827.3,

33. None of the websites Plaintiff was prevented from accessing or desires to view contains visual depictions that are obscene, child pornography, or harmful to minors within the meaning of 20 U.S.C. § 9134(f).

34. None of the websites that Plaintiff was prevented from accessing or desires to view contains material that is pornographic for minors.

35. There is no reasonable basis to believe that any of the websites Plaintiff was prevented from accessing or desires to view contain visual depictions that are obscene, contain child pornography, or harmful to minors within the meaning of 20 U.S.C. § 9134(f).

36. There is no reasonable basis to believe that any of the websites Plaintiff was prevented from accessing or desires to view contain material that was pornographic for minors within the meaning of MO. REV. STAT. § 182.827.3 and defined in MO. REV. STAT. § 573.010(14).

37. The Library or its Internet service provider employs an ICF program known as Netsweeper.

38. The Library has expended identifiable amounts of taxpayer funds to provide

Internet access to the public.

39. The Library has expended identifiable amounts of taxpayer funds for the purchase and ongoing maintenance and upkeep of the Netsweeper filtering software and associated services.

40. Netsweeper assigns websites to categories. Available categories include “adult image,” “criminal skills,” “extreme,” “general,” “IWF” (websites tagged by the Internet Watch Foundation as likely to contain images of child abuse), “occult,” “pornography,” and “religion.” Websites not categorized by Netsweeper as “adult image,” “extreme,” “IWF,” or “pornography” are not likely to contain visual depictions that are obscene, child pornography, harmful to minors within the meaning of 20 U.S.C. § 9134(f), or pornographic for minors within the meaning of MO. REV. STAT. § 573.010(14).

41. Netsweeper allows library ICF administrators to determine which categories are allowed and which are blocked by default.

42. Netsweeper allows library ICF administrators to block or unblock individual domains by default.

43. Netsweeper allows library ICF administrators to block or unblock individual pages by default.

44. Netsweeper allows library ICF administrators to temporarily disable blocking for individual categories.

45. Netsweeper allows library ICF administrators to temporarily disable blocking for individual domains.

46. Netsweeper allows library ICF administrators to temporarily disable the blocking for individual pages.

47. Netsweeper allows library ICF administrators to temporarily disable blocking entirely.

48. None of the Netsweeper configuration changes require substantial time, effort, or expertise on the part of library ICF administrators.

49. Upon information and belief, Wofford was at all relevant times, and remains, the Library's ICF administrator with the ability to change Netsweeper's settings on the Library's publicly accessible computer terminals.

50. Upon information and belief, Wofford and the Board were at all relevant times, and remain, the policymakers who determine which categories to block or unblock.

51. At all relevant times, it was the policy, practice, and custom of Defendants to block by default websites categorized as "occult."

52. Defendants know that the "occult" category substantially overblocks websites, including those the Plaintiff sought and asked to view related to Native American cultural and religious history and the Wiccan Church.

53. Netsweeper categorizes numerous websites discussing minority religions, religious practices, and beliefs from a positive or neutral viewpoint as "occult," including but not limited to:

- a. **About.com: Paranormal Phenomena** (paranormal.about.com), a viewpoint-neutral portal to news and discussions of paranormal issues;
- b. **All About Spirituality** (www.allaboutspirituality.org), discussing from a neutral viewpoint numerous topics in spirituality, including angels, astrology, meditation, paganism, shamanism, and yoga.

- c. **Astrology.com** (www.astrology.com), discussing astrology and offering horoscope readings and similar services;
- d. **The Church and School of Wicca** (www.wicca.org), the official homepage of the Wiccan Church;
- e. **Cult FAQ** (www.cultfaq.org), a viewpoint-neutral discussion of the cult phenomenon, including links to resources such as counseling and support for cult (ex-)members and their families;
- f. **The Encyclopedia of Death and Dying** (www.deathreference.com), containing viewpoint-neutral discussions of various cultures' and religions' ideas of death and death practices;
- g. **Wikipedia: Wicca** (en.wikipedia.org/wiki/Wicca), a viewpoint-neutral discussion of the Wiccan Church;
- h. **WitchVox** (www.witchvox.com), an overview of pagan belief systems, such as Druidism, Haitian Voodoo, Neopaganism, and Wicca;

54. At the same time, Netsweeper categorizes numerous websites discussing the *same topics* from the point of view of mainstream religions as either “religion” or “general,” including but not limited to:

- a. **Astrology and Horoscopes: The Bible and Christian View**
(<http://www.northforest.org/ChristianTopics/Astrology.html>), a discussion of astrology from a Christian viewpoint;
- b. **Catholic Encyclopedia: Paganism**
(www.newadvent.org/cathen/11388a.htm), a discussion of Paganism

from a Catholic viewpoint;

- c. **Christian Paranormal Answers** (christianparanormalanswers.com), a site that describes itself as “Answers about the Paranormal from a Christian viewpoint”;

- d. **What does the Bible say about Voodoo?**

(www.gotquestions.org/voodoo-Bible.html), a discussion of Voodoo from a Christian viewpoint.

55. Defendants know that the “occult” category results in content- and viewpoint- discrimination against non-mainstream religions and beliefs.

56. Blocking websites that Netsweeper categorizes as “occult” is not required by CIPA.

57. Blocking websites that Netsweeper categorizes as “occult” is not required by MO. REV. STAT. § 182.827.3.

58. At all relevant times, it was the policy, practice, and custom of Defendants to block by default websites categorized as “criminal skills.”

59. Defendants know that the “criminal skills” category overblocks websites, including those the Plaintiff sought and asked to view related to Native American cultural and religious history and the Wiccan Church.

60. Blocking websites that Netsweeper categorizes as “criminal skills” is not required by CIPA.

61. Blocking websites that Netsweeper categorizes as “criminal skills” is not required by MO. REV. STAT. § 182.827.3.

62. At all relevant times, it was and remains Defendants' policy, practice, and custom to impose substantial burdens for patrons seeking to unblock websites that are overblocked by the Library's ICF.

COUNT I

Free Speech Clause

63. Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this complaint as if fully set forth herein.

64. Defendants' policies, practices, and customs regarding blocking websites beyond what is required by CIPA or MO. REV. STAT. § 182.827.3 are content- and viewpoint-based restrictions on access to speech protected by the First Amendment.

65. Defendants' policies, practices, and customs regarding blocking websites are not narrowly tailored to serve a compelling state interest.

66. Plaintiff has no adequate remedy at law for the continuing violation of her constitutional rights.

67. Plaintiff has been injured by Defendants' policies, practices, and customs of blocking religious content based upon its viewpoint because she was prevented from accessing content and deterred from seeking to access content.

68. By refusing to unblock, at Plaintiff's request, websites not containing or likely to contain visual depictions that are obscene, child pornography, harmful to minors, or pornographic for minors, Defendants have created a substantial burden on Plaintiff's access to speech protected by the Free Speech Clause.

69. By discouraging Plaintiff from attempting to access, and creating undue delay in unblocking, websites not containing or likely to contain visual depictions that are

obscene, child pornography, harmful to minors, or pornographic for minors, Defendants have created a substantial burden on Plaintiff's access to speech protected by the First Amendment.

70. To the extent Defendants' action, policies, practice, and customs are in furtherance of, or compliance with, CIPA or MO. REV. STAT. § 182.827.3, the statutes are unconstitutional as applied to Plaintiff by Defendants.

COUNT II

Establishment Clause

71. Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this complaint as if fully set forth herein.

72. Defendants' policies, practices, and customs of blocking certain religious websites categorized as "occult" or "criminal skills," and the simultaneous decision to allow access to the websites of more mainstream religions, do not serve a legitimate secular purpose.

73. Defendants' policies, practices, and customs of blocking certain religious websites categorized as "occult" or "criminal skills," and the simultaneous decision to allow access to more the websites or more mainstream religions, has the principal effect of promoting and favoring some religious viewpoints over others.

74. Through Defendants' policies, practices, and customs of blocking certain religious websites categorized as "occult" or "criminal skills," and the simultaneous decision to allow access to the websites of more mainstream religions, Defendants have endorsed particular religious faiths and viewpoints.

75. Plaintiff has been injured by Defendants' policies, practices, and customs described above because she was prevented and deterred from accessing religious content related to the examination and exercise of her faith, while receiving the message that the websites of other faiths would be treated more favorably by Defendants.

76. Plaintiff has no adequate remedy at law for this continuing violation of her constitutional rights.

WHEREFORE, Plaintiff prays this Court award Plaintiff:

- A. A declaratory judgment pursuant to 42 U.S.C. § 1983 finding that the Defendants' acts, policies, practices, and customs at issue are unconstitutional;
- B. A permanent injunction enjoining Defendants from continuing to enforce or implement the unconstitutional policies, practices, and customs;
- C. Nominal damages for deprivation of her constitutional rights;
- D. Costs, including reasonable attorneys' fees, pursuant to 42 U.S.C. § 1988; and
- E. Such other and further relief as is just and equitable.

Respectfully submitted,

/s/ Anthony E. Rothert

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¹ Pro hac vice motion forthcoming.