

Why We Believe the U.S. Government's Attack of GirlsPooping.Com was Unlawful

It is our belief that individuals within the United States Federal Government conspired to abuse USC Title 18 Code Section 1461 for personal political gain and profit for their employer, acquire assets from the Corbetts, interrupt and cease all business activities of GirlsPooping.Com, financially incapacitate the Corbetts by means of a pretrial seizure under color of law, then later discredit Michael Corbett by attempting to label him as a "sex offender".

Violation of the 1st Amendment, 4th Amendment, 5th Amendment, 9th Amendment, 14th Amendment, & Obstruction of Commerce

Michael Corbett's 1st Amendment right to freely express an interest with others who share it was violated. 9th and 14th Amendments rights, protecting private consensual behavior between adults were violated. Mr. Corbett and his customers' 4th and 5th Amendment rights protecting private thoughts were violated. Even if Mr. Corbett's videos were determined legally obscene at a trial, *Stanley v. Georgia* allows private possession of obscene materials in one's own home and allows individuals the right to receive information and ideas regardless of their social worth.

Although U.S. Court rulings indicate that obscenity is not protected speech under the 1st Amendment, Statutes that prohibit the distribution of banned materials to those who have the Constitutional right to have them may be void under the 5th Amendment according to *Carey v. Population Services International* and *Craig v. Boren*.

The government's authority to enforce any moral code was compromised by the Supreme Court decision in *Lawrence v. Texas*. The government has no legitimate state interest in the protection of unwitting adults from exposure to obscene materials because obscenity laws are vague and fail the "strict scrutiny test" as applied to 1st Amendment issues. There is also no legitimate state interest in the protection of children from exposure to obscene materials. The courts have ruled in *United States v. Playboy* that "the objective of shielding children does not suffice to support a complete ban if protection can be obtained by a less restrictive alternative".

Unlawful, Pretrial Seizure

Prior to any indictment, all of the Corbetts' business equipment, including video cassette and DVD recorders was seized. In addition to copies of the original nine videos purchased undercover by Postal Inspector O'Shaughnessy, Federal agents seized all master copies and the entire video inventory of over 53 titles from the Corbetts' home office. The U.S. Supreme Court has held that "seizing films to destroy them or to block their distribution or exhibition is a very different matter from seizing a single copy of a film for the bona fide purpose of preserving it as evidence in a criminal proceeding." [*Heller v. New York*, 413 U.S. 483 (1973)]

"The pretrial seizure of petitioner's bookstore and its contents was improper. While a single copy of a book or film may be seized and retained for evidentiary purposes based on a finding of probable cause, books or films may not be taken out of circulation completely until there has been a determination of obscenity after an adversary hearing. The risk of prior restraint, which is the underlying basis for the special Fourth Amendment protection accorded searches for, and seizures of, First Amendment materials renders invalid the pretrial seizure here... Probable cause to believe that there are valid grounds for seizure is insufficient to interrupt the sale of presumptively protected books and films... Mere probable cause to believe a violation has transpired is not adequate to remove books or film from circulation." [*Fort Wayne Books, Inc. v. Indiana*, 489 U.S. 46 (1989)]

"While the general rule under the Fourth Amendment is that any and all contraband, instrumentalities, and evidence of crimes may be seized on probable cause (and even without a warrant in various circumstances), it is otherwise when materials presumptively protected by the First Amendment are involved... The Fourth Amendment does not permit the action taken here, where, except for the specification of copies of the two films previously purchased by the investigator, the warrant did not purport to particularly describe the things to be seized but, instead, left it entirely to the discretion of the officials conducting the search to decide what items were likely obscene and to accomplish their seizure.

The Fourth Amendment does not countenance open-ended warrants to be completed while a search is being conducted and items seized or after the seizure has been carried out.” [*Lo-Ji Sales, Inc. v. New York*, 442 U.S. 319, 326, n. 5 (1979)]

Michael and Sharon Corbett’s only source of income was taken away by an unlawful pretrial seizure of their entire business that produced and distributed presumptively 1st Amendment protected materials. This caused financial incapacitation of the Corbetts, which compromised their ability to organize and retain effective legal counsel. In other recent federal obscenity cases, such as *U.S. v. Extreme Associates* (2003) and *U.S. v. Five Star Video* (2006), no broad seizures were ever conducted, even after the indictments were delivered.

Sharon Corbett was held for questioning at the time of the search. Postal Inspector Thomas Svitek repeatedly asked Mrs. Corbett about the monetary value of assets within her home, rather than questioning her about the charges. Inspector Svitek later asked Mrs. Corbett how much money her parents had access to in order to post bond on her behalf. Sharon Corbett’s response was, “Not much more than \$1500. My parents just refinanced their home, so they don’t have much money”. Inspector Svitek then replied, “They should have access to a lot of money”. He slapped his notebook shut, and then left the room. Inspector Svitek’s inappropriate comment, along with his preoccupation with Sharon’s and her family’s money suggests that the actions taken by these government agents were motivated by a desire for monetary gain. Information on Mr. Svitek’s affidavit provided no specific evidence of criminal wrongdoing - only the elaborate descriptions of several consensual, nonviolent adult videos and seemingly harmless, honest business activities. The broad and sweeping seizure that took place seems unjustified and heavy-handed.

Wrongful Arrest & Incarceration

Michael and Sharon Corbett were arrested at the time of the raid and held in jail for 6 days to prevent them from accessing and protecting their bank assets and organizing an effective legal defense. No indictments had yet been issued and no trial had yet determined if the videos collected as evidence were legally obscene as required by law. In other federal cases, such as *U.S. v. Extreme Associates* (2003) and *U.S. v. Five Star Video* (2006), no arrests were made, even after the indictments were delivered.

Unlawful Forfeiture

While the Corbetts remained in jail, Postal Inspectors conducted a pretrial seizure of all money from the Corbetts’ personal checking accounts. Funds were completely withdrawn, not frozen. As proper procedure in 1st Amendment cases, money should have remained available to the Corbetts until an adversary hearing.

Tainting the Jury Pool Through Libel

While the Corbetts were held in jail, Prosecutors released deceptive information to local newspapers, leading the public to believe that the Corbetts had been arrested on charges related to child pornography. This was an attempt to publicly tarnish the reputation of the Corbetts and to taint a potential jury pool in favor of the Prosecution. This disinformation caused humiliation for the Corbetts, especially since they resided in a small town. They also received threatening telephone calls from anonymous individuals. The Corbetts decided to remove their address sign from the driveway in fear that their lives and property were in jeopardy.

Intimidation

After their release from 6 days in jail, the Corbetts were advised that they would remain under surveillance by the government, although they were assured that the surveillance would remain completely discreet and undercover to avoid any public embarrassment or spectacle. On numerous occasions, fully marked, State Trooper cars were observed driving up to the Corbett home, parking there for several minutes, then pulling away. All of this was done in full view of Michael and Sharon Corbett, as well as their neighbors. It should be noted that the Corbetts were charged with mailing obscene matter. There is nothing that a police officer, parking outside of the Corbett home, could possibly observe or detect from the street that could be relevant to the case.

Coercion to Plead Guilty

During Michael J. Corbett's plea hearing, Judge Faber asked specific questions to Mr. Corbett to determine the validity of the plea agreement made between Mr. Corbett and the Prosecutor. Judge Faber advised Mr. Corbett to admit that he knowingly mailed obscene matter. Michael responded, "I mailed the tapes", making no admission of willful guilt. Mr. Corbett's intention was to plead "no contest" instead of "guilty", but only a guilty plea could be accepted by the terms of the plea agreement. As a result, Mr. Corbett refused to plead guilty to the charge of mailing obscene matter. He would only plead guilty to his action of mailing the tapes. Mr. Corbett did not believe his videos were obscene because he was not qualified to make such a legal determination. Most legal scholars are unable to determine what "obscenity" is as well.

The judge asked Mr. Corbett if he was pleading guilty and waiving his rights under duress or to avoid a harsher sentence. Mr. Corbett was advised by his attorney prior to the hearing that answering "yes" to any of these questions could result in the denial of the plea agreement and therefore subject Mr. Corbett to forfeiture of his home and harsher penalties at an actual trial. Mr. Corbett had no choice but to state that his plea was completely voluntary and without any expectation of leniency from the court. Black's Law Dictionary, Revised Fourth Edition, page 369 states that "no confession induced by official threat of prosecution is voluntary".

Extortion

U.S. Prosecutors abused the RICO act, a law originally intended to fight organized crime in the early 70s - to take most of the Corbetts' property away from them. As part of a plea agreement, \$60,000 was extorted from the Corbett family in order to release the government's interest in their home and stop its forfeiture. At the time of the Corbetts' sentencing, Mr. Corbett was ordered to pay an additional \$30,000, and Sharon Corbett was ordered to pay another \$10,000 to the federal government - even though the Corbetts had no money left. The money was later secured by the federal government through the placement of liens against the Corbetts' home - effectively taking the home away from the Corbetts through the theft of its equity.

Defamation of Character

After Michael Corbett's release from his 18-month prison sentence, the United States Government, on multiple occasions, unsuccessfully attempted to classify Michael Corbett as a "sex offender" to defame his character and to reduce his credibility in any future litigation and/or appeal proceeding. Mr. Corbett had never committed any sexual offense nor had he exhibited any predatory behavior. His conviction was for a mere Postal violation.

Conclusion

The Corbetts' case, from the pretrial stages through probation, was clearly handled in a political manner. The unlawful pretrial seizure of 1st Amendment related business materials and assets, the pre-indictment jailing of Michael and Sharon Corbett, the seizure and leveraging of the Corbetts' personal assets, the tainting of a potential jury pool, and the unlawful attempts to classify Michael Corbett as a sex offender - indicate that the Corbetts were denied many fundamental civil liberties and were treated differently from other defendants in similar high-profile obscenity cases.

Recent information has come forward to suggest that the Department of Justice under John Ashcroft and Alberto Gonzalez has been rife with corruption - including Constitutional abuses of power and politically motivated hiring and firing of U.S. Prosecutors. When questioned about this corruption, the third Attorney General under the Bush Administration, Michael Mukasey, replied, "not every wrong, or even every violation of the law, is a crime". This ideology should have applied to the Corbetts' case, since there was never any intent to commit a crime or even a violation of law. It should also be noted that District Attorney, Kasey Warner later resigned over a campaign finance scandal that occurred around the same time he prosecuted the Corbetts' case. Michael and Sharon Corbett were held as political prisoners - intended to appease influential supporters of the Bush administration.

It is our opinion that the United States Federal Government does not play by the rules and will do anything to secure a conviction and steal money to feed its bloated budgets. Had the laws of the U.S. Constitution been adhered to as the American Forefathers had intended, the "limited" government would never had gotten past the Corbetts' front door - or to put it more accurately, these constitutional criminals would have never gotten through the window they shattered.

