

Tattered Cover wins ruling

Court rules store doesn't have to give records to police

By Karen Abbott Rocky Mountain News April 9, 2002

The Colorado Supreme Court slammed the door Monday on police efforts to get a customer's records from Denver's Tattered Cover Book Store, a closely watched decision that could bolster privacy rights nationwide.

Civil libertarians rejoiced at the 6-0 ruling.

"It's a great decision," said Steve Zansberg, attorney for numerous groups who supported the store's long battle, including librarians and booksellers.

"For all of us in Colorado there's cause to celebrate that the judiciary has lived up to its role as the protector of civil rights and liberties."

Tattered Cover and its owner, Joyce Meskis, refused to give Thornton police information on the reading habits of a suspected methamphetamine dealer.

Officers had found an empty package from the bookstore outside a mobile home housing a meth lab. Inside the home they discovered two how-to books, *Advanced Techniques of Clandestine Psychedelic and Amphetamine Manufacture* by Uncle Fester and *The Construction and Operation of Clandestine Drug Laboratories* by Jack B. Nimble.

They sought the sales receipt in an effort to prove one of the residents bought the books.

The Supreme Court ruling said that police must prove they have a compelling need for the information. They can't simply show up at a bookstore or library with a search warrant and ask for the records. Booksellers and librarians have the right to a court hearing first, the ruling said.

In this case, the anti-drug task force had other ways to find out what it needed to know, the court said.

Meskis, who fought for two years for her customers' rights to read what they please without the government knowing about it, said she read the ruling with "relief - absolute relief."

It is the first precedent-setting ruling in the nation on bookstore records, experts said.

"This is a victory for readers across the country," said Rick Kornfeld, one of Tattered Cover's lawyers.

"We're thankful to the court for issuing such a clear, thorough and articulate opinion in support of the First Amendment, which is the bedrock of our free society. Coloradans are lucky to have the Tattered Cover, which is stubbornly dedicated to protecting the First Amendment rights of all of its customers."

In New York, Chris Finan, president of the American Booksellers Foundation for Free Expression, said the ruling challenges the rest of the nation "to live up to the high standards that the Colorado Supreme Court has set."

Meskis' lawyers hailed her as a heroine, but Meskis demurred, insisting the effort was a community one.

In Thornton, the commander of the anti-drug task force that sought the records said she hopes charges will be filed soon against five suspects, even without Tattered Cover's records.

"We're going to try," said Thornton police Lt. Lori Moriarty. "We truly, truly feel that this piece of evidence, in a jury's mind when they're sitting there listening to the case, would have given them proof beyond a reasonable doubt."

She said authorities waited for Monday's ruling before filing charges in connection with the meth lab they raided in March 2000.

Meskis has not disclosed what was in the envelope found at the mobile home. But someday, in some other case, a court might require her to turn over information if a judge decides the police have a crucial need.

"The Supreme Court decision doesn't say you can never get information from a bookstore," said Meskis' attorney, Dan Recht. "You have to show a compelling need."

The decision will most likely be popular, because people value their privacy, said Richard Collins, a constitutional law professor at the University of Colorado.

But what if the book buyer was a suspected terrorist, he asked. Then, the public would probably be less understanding of Meskis' position.

Meskis said the officers who came to her store in lower downtown with the search warrant were polite and pleasant, but bent on their mission.

The court based its decision largely on the Colorado Constitution, which has a tougher freedom of expression provision than the U.S. Constitution's First Amendment.

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