

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION**

**REBECCA VIRDEN, NINA PRATER,
AND SAMANTHA ROWLETT, on their
own behalf and on behalf of their minor children, PLAINTIFFS**

v. Case No. 2:23-cv-02071-PKH

**CRAWFORD COUNTY, ARKANSAS,
and the following individuals in their official
capacity only:
COUNTY JUDGE Chris Keith;
QUORUM COURT MEMBERS Robert Kevin Arnold,
Lonnie Myers, Morgan R. Morgan,
Michael Morrison, Brad Martin, Mark Shaffer,
Lonnie Jennings, Tia Woodruff, Jason Cox,
Jeff Beau, Craig Wahlmeier, Mitch Carolan,
Roger Atwell and;
LIBRARY BOARD MEMBERS Keith Pigg,
Colleen Hoelscher, Tammara Hamby,
Amanda Stevens, Kaelin Schape, Craig Wahlmeier,
Mitch Carolan, Roger Atwell and
INTERIM LIBRARY DIRECTOR Eva White, DEFENDANTS**

COMPLAINT FOR A CIVIL CASE

COMES NOW, Plaintiffs, by and through their attorneys, Terrence Cain
and Brian Meadors, and state:

This matter arises from Crawford County’s unlawful censorship of materials in the county libraries.

Parties

1. Plaintiffs Rebecka Virden, Nina Prater, and Samantha Rowlett are residents of Crawford County, Arkansas, and members and users of the Crawford County Library System. Their minor children are also users of the Crawford County libraries; some of the children have their own membership, some use their parents' membership.

1. Defendant Crawford County is a political subdivision of the State of Arkansas and is within the Fort Smith District of the U.S. District Court for the Western District of Arkansas.

2. Crawford County's chief executive is County Judge Chris Keith. He is being sued in his official capacity only.

3. Crawford County's Quorum Court is comprised of these thirteen justices of the peace, sued in their official capacity only: Robert Kevin Arnold, Lonnie Myers, Morgan R. Morgan, Michael Morrison, Brad Martin, Mark Shaffer, Lonnie Jennings, Tia Woodruff, Jason Cox, Jeff Beau, Craig Wahlmeier, Mitch Carolan, and Roger Atwell.

4. Crawford County has a county library pursuant to Title 13, Chapter 2, Subchapter 4 of the Arkansas Code.

5. The Crawford County Library System interim director is Eva White.

She is being sued in her official capacity only.

6. The Crawford County Library has a library administrative board.

Under Ark. Code Ann. § 14-14-705(b)(2), “[a]s to actions of tort, the [library] board shall be considered as an agency of the county government and occupy the same status as a county.”

7. The Crawford County Library Board members are: Keith Pigg, Colleen Hoelscher, Tammara (Tammi) Hamby, Amanda Stevens, and Kaelin Schaper. They are being sued in their official capacity only.

8. Collectively, the Defendants will be referred to as Crawford County or the County.

Subject Matter Jurisdiction

9. This Court has subject matter jurisdiction under 28 USC §§ 1331, 1343, as this is a suit bringing a claim under 42 USC § 1983.

Venue and Personal Jurisdiction

10. Venue is proper under 28 USC §§ 1391(b)(1) and (b)(2), as at least one of the Defendants reside (or are located) in the District and the actions giving rise to this suit occurred in the District.

11. Personal jurisdiction is proper because all Defendants are residents of (or located in) the Western District of Arkansas.

Facts

12. Under Arkansas law, the Crawford County county judge appoints, and the quorum court confirms, the Crawford County Library Board. Ark. Code Ann. § 14-14-705 (b)(2)(D).

13. A condition precedent to appointment as a county librarian is the recommendation of the county library board.

14. A public library like the Crawford County library system is a “public forum” as that term of art is used in First Amendment jurisprudence.

15. Under Ark. Code Ann. § 13-2-402, the county librarian “shall conduct the library according to the most acceptable library methods.”

16. In late 2022, early 2023, the Crawford County Quorum Court began a series of actions intended to, and resulting in, the stigmatization of certain books by placing a prominent color label on them and moving the books to a separate “social section.” The Van Buren Public Library’s “social section” is shown here:



17. The “social section” contains books for all ages but have this common theme: the books create, for Crawford County, the “discomfort and unpleasantness that... accompan[ies] an unpopular viewpoint.”¹

18. Illustrative of the Defendant’s motivations for removing the books is a letter from Tammi Hamby, now a member of the Crawford County Library

¹ *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 509 (1969).

Board.

19. Tammi Hamby's letter reads, in all meaningful respects, as follows:

To: Crawford County Pastors

Re: public library LGBTQ children's books

As I am sure you have heard there was a display of children's books aimed at children 10 and under purchased and displayed at our local libraries focusing on alternative lifestyles. The only reason to do this is grooming a generation of children to feel this is normal and an accepted way of life. These children are too young to make those decisions and it should be left solely up to the parents what they want their child to be taught concerning these issues.

A group of concerned citizens attended the last quorum court meeting on 12/19/22 and it appears to have been a success. There was a tentative agreement to remove the offensive books from the children's section in the library and to work on a permanent solution to the problem.

There have been several resignations of the county library board since the meeting so please pray that the right people are appointed to those positions by our incoming county Judge Chris Keith. Please keep him in your prayers as his tenure starts with this significant

conflict amongst his constituents.

The battle is not over and we need your help. There is a scheduled library board meeting on Tuesday the 10th of January at 4:30 pm in the public library building here in Van Buren. We need as many people who can to show up with us to make sure the offensive and harmful children's books are removed.

There have been several constructive suggestions regarding these books and others like them in the library and the library director Deidre Grzymala seems amenable to negotiating.

A large supportive contingent in the meeting would speak volumes to the leadership regarding the importance of protecting our children. We are asking you to ask your congregation to attend the next library meeting January 10, 2023 at 4:30 p.m.

We hope to see you there,

Dr. Jeff and Tammi Hamby

20. The “tentative agreement” was in actuality the Quorum Court engaging in viewpoint discrimination by requiring its library board and librarian to label and sequester books based on their content.

21. The Quorum Court's direction to label and sequester the books was

admitted by Tammi Hamby and the then-librarian Deidre Gryzmala in the January 10, 2023, Crawford County Library Board meeting:

Tammi Hamby 1:13:48

Ok, last item on the agenda. Deidre, you're going to speak of the compromise with the Quorum Court?

Deidre Gryzmala 1:13:51

Yes. Okay, so the quorum court meeting was on December 19. **Per the quorum court**, we have reached a compromise about the LGBTQ books in the library system. Each branch has moved all of the LGBTQ kids books into a new section, so they have their own section. It is within the adult section, which we are calling "S" for social. They are a separated collection in the catalog. They were moved to the adult section and there and if there are any books that we missed, just alert the staff, and we can get it switched over. We also put color label covers on the books for staff so that books do not get shelved in the wrong area. When the staff person sees the label, they know that it'll go in this separate section. Every branch has already moved all their books over and we also place signs in this area and other areas of the library that say children 10 and under must be accompanied by an adult or guardian in the library at all times, which this statement is also in our policy. And I also like to point out that in order for a child, anyone under 18, to get a library card, their parent or guardian has to give them consent and sign for their card.

22. Other proffered reasons for singling out these books and making them more difficult—and more stigmatizing—to read is that the books are “pornography,” or “exposing children to explicit sexual ideas or imagery.”

23. To be clear, none of these books could be fathomably be accused of

“grooming,” “pornography,” or “exposing children to explicit sexual ideas or imagery.”

24. For example, the “social section” contains *Uncle Bobby’s Wedding*, *Cinderelliot, A Scrumptious Fairytale*, and *The Big Book of Pride Flags*.

25. These books are wholly appropriate for placement in the children’s section of a public library.

a. *Uncle Bobby’s Wedding*

Goodreads description is “Bobby and Jamie are getting married, but Bobby’s niece Chloe is worried that she won’t be his favorite person anymore. Will Uncle Bobby still think she is special? Sarah Brannen’s warm story is set in an alternative family as Uncle Bobby marries his boyfriend. *Uncle Bobby’s Wedding* embraces Bobby’s relationship with Jamie, but keeps its focus where it truly belongs: on an uncle and niece’s love for each other.”

b. *Cinderelliot, A Scrumptious Fairytale*

The book retells the Cinderella story, but has gay characters.

c. *The Big Book of Pride Flags*

Goodreads describes this book as having “fun facts, simple explanations and a short history of each flag accompanying beautiful

illustrations, children will uncover the history of Pride and be introduced to different genders and sexual orientations. There's also a blank Pride flag design at the back of the book so that children can create their very own Pride flag!”

The County’s censorship of *Pride Flags* showcases that the censorship has nothing to do with “grooming,” “pornography,” or “exposing children to explicit sexual ideas or imagery.” This is a book about flags and the LGBTQ+ community. Crawford County censors the group because of its policy to target, stigmatize, silence, and hate LGBTQ+ people and their ideas.

26. Crawford County’s censorship of the “Social Section” books arises from impermissible religious considerations, i.e., its extreme and malevolent view of the Bible, resulting in the County punishing the already marginalized LGBTQ+ community.

27. The Defendant’s actions have resulted in the library not being administered in accordance with the most acceptable library methods, in contravention of Ark. Code Ann. §.13-2-402(b).

Causes of Action

28. Defendants actions violate 42 USC § 1983 and the First Amendment,

as applied to the states by the 14th Amendment. Specifically:

- a. restricts the Plaintiffs' right to receive information.
- b. is a violation of the Establishment Clause of the First Amendment.

WHEREFORE, Plaintiffs pray that the Court order the Crawford County Library System to restore and maintain its books and future acquisitions to the same administrative controls and processes as they existed in June 2022, for costs, attorney's fees, and such other relief as allowed by law.

/s/ Terrence Cain

Terrence Cain, Ark. Bar # 99128
Attorney for Plaintiffs
208 Brown Street
Little Rock, AR 72205-5841
501-952-8421
terrencecain@windstream.net

/s/ Brian Meadors

Brian Meadors, Ark. Bar # 2001186
Attorney for Plaintiffs
1930 W. Oak Shadows Cir
Memphis, TN 38119
980-867-1371
brianmeadors@gmail.com