

CHEYENNE HERALD

FREE - TAKE ONE

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the local advocacy Journal

We have our own John Kerry. Judge Peter Arnold. *"I ruled for the Cheyenne Herald. After I ruled against the Cheyenne Herald."*

In a ruling that was ridiculed and condemned all over the country, by unlikely allies including the First Amendment Center and The Cheyenne Herald, Laramie County District Judge has taken his lumps. The ruling that impeded on the constitutional rights of the Cheyenne Herald was even noticed by the Guardian, a United Kingdom newspaper that linked to the Herald website from London and an English language newspaper in Costa Rica, which did likewise.

When Laramie County Community College president Darrel Hammon implored the fawning board of trustees to seek a temporary restraining order against the Cheyenne Herald, he could not have known how easy it would be. Had he ever studied anything about First Amendment rights, he would have known that, basically, anything a newspaper can get their hands on legally, they can publish. He, nor any member of the LCCC board of trustees, could have been familiar with the Pentagon Papers and the legal battle about publishing them.

It is pitiful that those in the education business could be so ignorant of freedom of the press, the First Amendment and settled case law.

In spite of their ignorance, they can't be held totally responsible for this abuse of process. The dopes at LCCC can enlist the assistance of a member of the Wyoming Bar. And they did. Those attorneys could have offered the legal advice that LCCC would accomplish nothing more than serving as a minor irritant to the Cheyenne Herald. That they could not prevail in any legal battle having to do with publishing the Care Team Report nor the stories which the Herald already had posted on its website. Any attorney worth a thimble of spit would have know that.

Instead, the law firm chose to accept fees and prepared a temporary restraining order they had to hope the district court judge would not read before granting.

Enter Peter Arnold.

Did the attorneys go "judge shopping" or did they luck by Arnold another way? Whichever, they could not have drawn a longer straw. This guy is consistently such a poor jurist. My case was no different.

A Complaint without basis, an Affidavit full of lies, a Motion without facts and a judge in a hurry to get home for the weekend did not bode well for the local advocacy journal, the Cheyenne Herald.

Almost without precedent, the local judge granted a temporary restraining order without even attempting to involve a defendant that would suffer immeasurable damages. No attempt was made to contact me for the Cheyenne Herald.

And, any judge worth his salt could have read what was already posted on the Cheyenne Herald website - and Peter Arnold is familiar with the website because he later admitted to me in an e-mail that he had directed his assistant to look at it to try to find a fax no. so documents could later be sent to me - and, had he done that simple task, he would never have agreed with LCCC that students' identities were compromised or that there was any information in the Care Team Report or in my articles that could jeopardize federal funding to the college.

The college lied in their pursuit and a lazy judge did not call them on it.

As soon as he read the material, he ate his TRO. It probably didn't hurt that he was being condemned far and wide.

The WT-E and local AP branch tried to mislead readers into believing that the WT-E was the only publication to be affected by the TRO. Truth is, the WT-E was not affected. They had published nothing. They had barely bought the data before the TRO was granted and served. The judge had to guess as to what they *might* print. My material was already on my website. He didn't have to guess

about anything. The WT-E suffered no damages. They suffered only minor inconvenience. They were simply delayed in publishing an unknown quality of work and disclosures. But, with the help of the AP, to whom they pay fees, they made it sound like they were the victim - the only victim - to the heavyhanded action of LCCC and the complicit cooperation of an incompetent judge in Cheyenne.

To their credit, the First Amendment Center did not take the bait. In addition to publishing the incomplete offering of the AP, the FAC headed their 5/25 story with:

FAC Editor's note: The judge also ordered The Cheyenne Herald, a local bi-weekly newspaper, not to publish stories on the internal report. On May 25, the Herald reported on its Web site that Judge Arnold had lifted the restraining order. The Herald has restored the links to its story and a two-page report.

That is why the First Amendment Center is the First Amendment Center and the Associated Press is the Associated Press, I guess. Readers of the FAC article could click on the words "story" and "report" and go to the Cheyenne Herald website to read each.

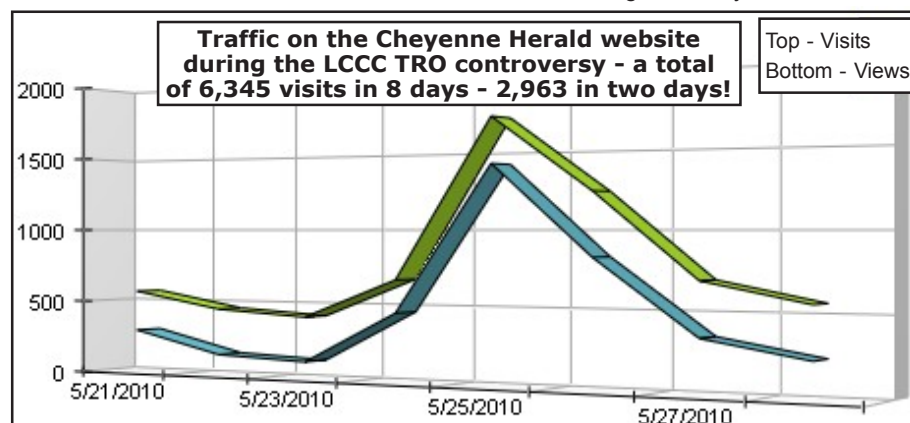
Even the Guardian, a UK newspaper, provided a link to the Cheyenne Herald website. But the foreign newspaper that really generated the visits to the website was *amcostarica*, an English language newspaper in Costa Rica. Their readers apparently wanted to see what I had written. The criticism of their water and unsafe conditions of Samara didn't set too well. Others e-mailed me in support of the beauty and attractions of Costa Rica. I did not disagree or say otherwise.

An attorney with the Student Press Law Center wrote for the Huffington Post online newspaper: "The prior restraint a Wyoming judge placed on two newspapers was lifted today, which is great; but the institution that abused student privacy law to get the court order hasn't faced consequences yet."

And, "The college's argument -- that the U.S. Department of Education would punish the college for not stopping the document from falling into the newspaper's hands -- is frivolous on multiple grounds. FERPA penalizes only the disclosure of confidential information by the school -- not by an unrelated third party such as a newspaper. (The law is quite clear that journalists may freely publish documents leaked by confidential sources, even if the leaker may himself be in trouble for violating his employer's rules, or even breaking the law.)"

The Cheyenne Herald came by the Care Team Report legally. I never had the redacted copies of the student's confidential reports provided to the Care Team - I never sought them and never wanted them. I made the same arguments about FERPA not applying to the Care Team Report before the TRO was granted. There was no justification for the TRO.

Pages 9 - 12 of this issue repeat the stories posted on the Cheyenne Herald on May 21, with little editing later. The reason I encored them here is that there are many readers of the print version of the Cheyenne Herald who do not have access to the internet or my website. I try to never exclude them from the stories I've written and posted on the website. If you've already read them on the website, you might want to take another look - there may be some minor changes or additions to what you first read there. Readers can see for themselves that there was nothing on those pages or the references to the Care Team Report in the article on page 10 that identified any student nor made inappropriate references about any student's identity. There was nothing on those four pages posted to the website on May 21 nor on the Care Team Report itself that warrants a temporary restraining order being granted against the Cheyenne Herald. Peter Arnold is not only a laughingstock locally. He has made the big time. He is a national laughingstock.



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