



2018-2019 Film Series with American Jazz Museum and Greater KC Black History Study Group

On **Monday, March 11 at 6:00 p.m.**, the National Archives in partnership with the American Jazz Museum and Greater KC Black History Study Group, will host an evening film screening of **STEP**. This program will take place at the American Jazz Museum, 1616 E. 18th Street, Kansas City, MO. [Reservations](#) are requested for this **free program**.

Set in the heart of Baltimore, this film documents the experiences of an all-girls high school step team as they try to become the first in their families to attend college. The girls strive to make their dancing a success against the backdrop of social unrest. Empowered by their teachers, teammates, counselors, coaches and families, they chase their ultimate dreams: to win a step championship and to be accepted into college. This all female school is reshaping the futures of its students' lives by making it their goal to have every member of the senior class accepted to and graduate from college, many of whom will be the first in their family to do so.



March 2019

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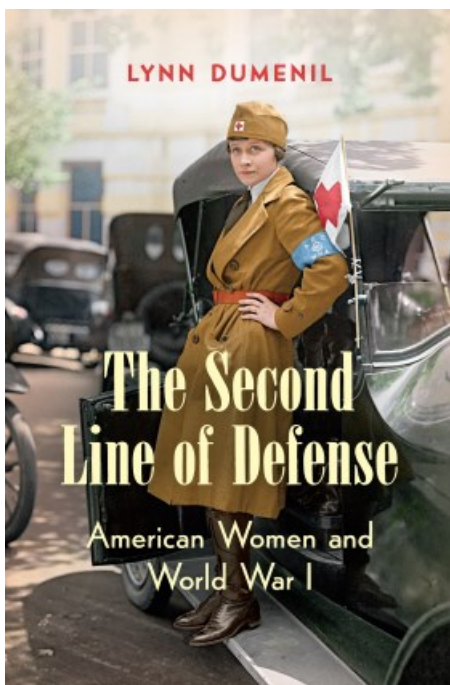
Upcoming Events

Unless noted, all events are held at the National Archives 400 W. Pershing Road Kansas City, MO 64108

- **MARCH 11 - 6:00 P.M.**
*FILM SCREENING: *STEP*
- **MARCH 21 - 6:30 P.M.**
*AUTHOR EVENT: *THE SECOND LINE OF DEFENSE* BY DR. LYNN DUMENIL
- **MARCH 25 - 3:00 P.M.**
*LECTURE: *19TH AMENDMENT AND ITS HISTORICAL IMPACT* WITH DR. KIM WARREN

*DENOTES ACTIVITY IS OFFSITE.

Dr. Lynn Dumenil to Discuss *The Second Line of Defense: American Women and World War I*



On **Thursday, March 21 at 6:30 p.m.**, the National Archives in partnership with the National World War I Museum and Memorial, will host **Dr. Lynn Dumenil** for a book lecture titled ***The Second Line of Defense: American Women and World War I***. This program will take place at the National World War I Museum and Memorial, 2 Memorial Drive, Kansas City, MO. [Reservations](#) are requested for this **free program**.

How did American women help the United States mobilize for the largest military endeavor in the nation's history? Dumenil will explore World War I's surprising impact on women and, in turn, the impact of women on the war. Tracing the experiences of a diverse group of women, including African Americans, dissidents and pacifists, Dumenil considers the challenges and opportunities they encountered, considering the broader context of the social, cultural and political history of the era. Copies of Dumenil's book will be available for purchase and signing.

Hidden Treasures from the Stack

The 2 Live Crew, Too Out of Line: What “F” Words are Permissible Free Speech?

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

-First Amendment to the United States Constitution

On February 7, 1989, the Florida-based musical group The 2 Live Crew released their third album, *As Nasty As They Wanna Be (Nasty)* and the highly edited version, *As Clean As They Wanna Be (Clean)*. The permissibility of *Nasty's* obscene material soon became the center of controversy. Sheriff Nick Navarro of Broward County, Florida, at the direction of Detective Mark Wichner, purchased *Nasty* on cassette tape. Wichner then transcribed many of the lyrics and submitted them to Judge Mel Grossman of the Broward County Circuit Court on March 9, 1990. Grossman noted that a *Miami Herald* article stated that “many of The 2 Live Crew’s lyrics are so filled with hard-core sexual, sadistic and masochistic material that they could not be printed here, even in censored form.” After reviewing *Nasty*, Grossman issued an order that probable cause for obscenity had been met under Florida State legal statute §847.011. Sheriff Navarro distributed a copy of the order to retail establishments that might be selling the recording to “warn the stores as a matter of courtesy.”

Concerned about album sales and their ability to exercise free speech, The 2 Live Crew filed a suit against Navarro’s actions in Federal civil case, 90-6220CV *Skywalker Records, Inc.; Luther Campbell; Mark Ross; David Hobbs; and Chris Wongwon, Plaintiffs, v. Nicholas Navarro, Sheriff Broward County, Florida, Defendant* in the United States District Court for the Southern District of Florida (Fort Lauderdale). The attorneys for Skywalker Records cited that there had been a deprivation of rights under 42 U.S. Code §1983. The question posed to the Federal District Court was to what extent is obscene language permissible under the First Amendment and Florida State statute?

The 2 Live Crew and their attorneys hired expert witnesses to advocate that their work had artistic, cultural, and historical value. They provided a cassette recording of their album as evidence. The American Civil Liberties Union Foundation of Florida (ACLU) became involved and submitted an [Amicus Curiae Brief](#) in support of The 2 Live Crew.

Both parties motioned the District Court to have the case heard by a jury; however, Judge Jose A. Gonzalez, Jr. ruled sans jury that the music was in fact obscene based on the three part *Miller Test*. For something to be considered obscene under this test, it must meet each of the following criteria:

- 1) whether ‘the average person, applying contemporary community standards’ would find that the work, ‘taken as a whole,’ appeals to ‘prurient interest’
- (2) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law, and
- (3) whether the work, ‘taken as a whole,’ lacks serious literary, artistic, political, or scientific value.

In Gonzalez’s “Final Order” in the case, he wrote:

This is a case between two ancient enemies: Anything Goes and Enough Already.

Justice Oliver Wendell Holmes, Jr. observed in *Schenck v. United States*, 249 U.S. 47, 39 S. Ct. 247, 63 L. Ed. 470 (1919), that the First Amendment is not absolute and that it does not permit one to yell “Fire” in a crowded theater. Today, this court decides whether the First Amendment absolutely permits one to yell another “F” word anywhere in the community when combined with graphic sexual descriptions.

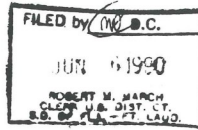
Two distinct and narrow issues are presented: whether the recording *As Nasty As They Wanna Be (Nasty)* is legally obscene; and second, whether the actions of the defendant Nicholas Navarro, as Sheriff of Broward County, Florida, imposed an unconstitutional prior restraint upon the plaintiffs’ right to free speech.

On June 6, 1990, Gonzalez determined that Navarro’s actions toward local retail music stores for selling *Nasty* was unconstitutional, but declared that the plaintiff’s album was in fact obscene. The “Final Order” by Gonzalez coincided with an additional court order to seal the trial exhibits; the clerk could only allow the contents to be viewed if the individual was over 18 years old and presented a valid driver’s license.



IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

90-5508



SKYYWALKER RECORDS, INC.; LUTHER
CAMPBELL; MARK ROSS; DAVID HOBBS;
and CHRIS WONGWON;

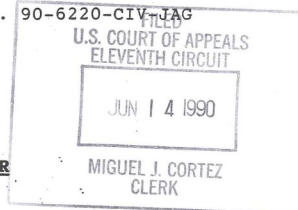
Plaintiffs,

v.

NICHOLAS NAVARRO,

Defendant.

Case no. 90-6220-CIV-JAG

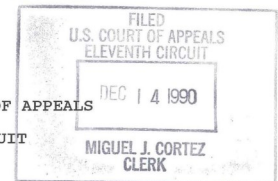


FINAL ORDER

This is a case between two ancient enemies: Anything
Goes and Enough Already.

Justice Oliver Wendell Holmes, Jr. observed in Schenck
v. United States, 249 U.S. 47(1919), that the First
Amendment is not absolute and that it does not permit one to
yell "Fire" in a crowded theater. Today, this court decides
whether the First Amendment absolutely permits one to yell
another "F" word anywhere in the community when combined
with graphic sexual descriptions.

Two distinct and narrow issues are presented: whether
the recording As Nasty As They Wanna Be(Nasty) is legally
obscene; and second, whether the actions of the defendant



IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

Luke Records, Inc., a Florida
corporation formerly known as
Skyywalker Records, Inc.,
et al.,

plaintiffs-appellants,

v.

Nick Navarro, Sheriff, Broward
County, Florida,

defendant-appellee.

No. 90-5508

D.C. No. 90-6220-CIV-JAG

MOTION FOR LEAVE TO FILE
A BRIEF AMICUS CURIAE

Right: "Motion for Leave to File an Amicus Brief,
December 14, 1990," Appellate Case File 90-
5508 Luke Records, Inc., a Florida corporation
formerly known as Skyywalker Records, Inc., et al.,
Plaintiffs-Appellants, v. Nick Navarro, Sheriff,
Broward County, Florida, Defendant-Appellee. Series
National Archives Identifier: 2542176. U.S. Court
of Appeals for the Eleventh Circuit. Record Group
276, Records of the United States Courts of
Appeal. National Archives at Kansas City.

Home Box Office, Inc. ("HBO"), respectfully moves this
Court pursuant to FRAP 29 and 11th Cir. R. 29-1 for Leave to
File a Brief Amicus Curiae in support of the appellants in
this case.

HBO provides premium television programming services to
subscribing viewers throughout the country. HBO provides
its subscribers with substantially different programming
than standard broadcast television and some of HBO's
programming is specifically directed to more mature
audiences. Some movies, comedy programs, concert
performances, and dramatic programs on HBO's services
include language or scenes that frankly address human
sexuality, but in a manner that is not obscene and is fully
protected by the First Amendment.

Left: Gonzalez, Jose Alejandro, Jr., Judge
for the United States District Court for the
Southern District of Florida, Fort Lauderdale
Term, "Final Order, June 6, 1990" from
Civil Case File 90-6220-CIV-JAG: Skyy-
walker Records, Inc.; Luther Campbell; Mark
Ross; David Hobbs; and Chris Wongwon,
Plaintiffs, v. Nicholas Navarro, Defend-
ant submitted on June, 14, 1990, as part of
Appellate Case File 90-5508 Luke Records,
Inc., a Florida corporation formerly known as
Skyywalker Records, Inc., et al., Plaintiffs-
Appellants, v. Nick Navarro, Sheriff,
Broward County, Florida, Defendant-
Appellee. Series National Archives Identifi-
er: 2542176. United States Court of Ap-
peals for the Eleventh Circuit. Record Group
276, Records of the U.S Courts of Appeal.

(Continued from page 2)

Three days after the trial closed, a local music store owner was arrested for refusing to stop selling the album. Two days later, June 11, 1990, Luke Campbell and Chris Wongwon - members of The 2 Live Crew - were arrested on a misdemeanor charge of violating state obscenity laws following an early morning performance at Club Futura. According to a telephone interview by *The New York Times*:

...[Navarro] had sent detectives to the group's concert last night. Plainclothes police officers videotaped the performance. Mr. Navarro said a detective telephoned early in the morning to tell him the rap group had performed a song with a sexually explicit title from the album. "So I ordered them to arrest all the band members who performed the song," Mr. Navarro said. "There is no doubt that they violated a state statute - the lyrics have been declared obscene by a judge - whether you perform them on an album or at a concert.

Ironically, The 2 Live Crew arrest coincided with the plaintiff's submission of a "Notice of Appeal" to the United States Court of Appeals for the 11th Circuit (Atlanta). *Luke Records, Inc., a Florida corporation formerly known as Skyywalker Records, Inc., et al., Plaintiffs-Appellants v. Nick Navarro, Sheriff, Broward County, Florida, Defendant-Appellee* officially started trial shortly thereafter.

Several organizations - Home Box Office, Inc. (HBO), National Association of Recording Merchandisers (NARM), Recording Industry Association of America, Inc. and the ACLU - each motioned to file an Amicus Curiae Brief in support of the Appellants (Luke Records). HBO's "Motion for an Amicus Curiae Brief" stated that:

In its decision below, the District Court incorrectly held that The 2 Live Crew's recording, *As Nasty As They Wanna Be*...was legally obscene under the First Amendment. This conclusion, as well as the improper analysis of the Court below, could threaten HBO's continued telecast of some of its programs...The District Court's opinion, however, has significant ramifications for expression on human sexuality in other media, including television. The broad reach of the Court's opinion, if not reversed, could sweep within its ban numerous works that are fully protected by the First Amendment.

In response, the Appellee (Navarro) wanted to present excerpts of the audio recording during the trial. The Appellants objected stating that the *Miller Test* "requires a work to be 'taken as a whole' in an obscenity case. 'Excerpts' are not a whole." There were no objections raised to the recording being played in full; however Judge Lanier Anderson, III, denied the motion to include the audio.

Ultimately, the decision in the Appellate Case File focused on three key issues that had affected the outcome of the District Court trial. First, the burden of proof rested with Navarro during the District Court trial, but "He submitted no evidence to contradict the testimony that the work had artistic value." "Second, the case was tried by a [District Court] judge without a jury, and he relied on his own expertise as to the prurient interest community standard and artistic value prongs of the Miller test." Third, it was very difficult for the Court of Appeals to review value judgements. The Court of Appeals officially reversed the decision of the District Court on May 7, 1992.

On May 28, 1992, the lawyer for the Appellee (Navarro) submitted a "Petition for Rehearing and Suggestion of Rehearing en Banc" on the basis that the decision "is contrary to...decisions of the Supreme Court of the United States or the precedents of this circuit and the former 5th Circuit Court of Appeals." They also questioned the authority and accuracy of expert testimony as evidence - the attorney believed that The 2 Live Crew had painted an inaccurate picture with the support of expert testimony to the District Court judge.

Any person can see it is a cow and I do not need an expert to tell that to the judge. The District Court looked at the whole cow and found that despite the stripes and the expert opinions that the animal was indeed a cow. The 11th Circuit Court of Appeals panel decision holds that the district judge must accept the experts [sic] opinion. Today the law in this circuit that a cow with painted black and white stripes is a zebra.

The rehearing of the Appellate Case by the full panel of judges from the Court of Appeals was denied in spite of the efforts by Navarro's lawyer. Navarro petitioned the Supreme Court for a rehearing on December 14, 1992, but the ruling of the US Court of Appeals was upheld.

(continued on next page)

Citations

Appellate Case File 90-5508 *Luke Records, Inc., a Florida corporation formerly known as Skywalker Records, Inc., et al., Plaintiffs-Appellants, v. Nick Navarro, Sheriff, Broward County, Florida, Defendant-Appellee*, United States Court of Appeals for the 11th Circuit. National Archives Identifier: 2542176. Transfer A276-97-0002, box 20. Record Group 276, Records of the United States Courts of Appeal. National Archives at Kansas City.

"Decision, 05/07/1992," Appellate Case File 90-5508 *Luke Records, Inc., a Florida corporation formerly known as Skywalker Records, Inc., et al., Plaintiffs-Appellants, v. Nick Navarro, Sheriff, Broward County, Florida, Defendant-Appellee*, United States Court of Appeals for the 11th Circuit. Accessed February 19, 2019.

<https://openjurist.org/960/f2d/134/luke-records-inc-v-navarro>

Gonzalez, , Jose Alejandro, Jr., District Judge. "Final Order, 06/06/1990" Civil Case File 90-6220-CIV-JAG: *Skywalker Records, Inc.; Luther Campbell; Mark Ross; David Hobbs; and Chris Wongwon, Plaintiffs, v. Nicholas Navarro, Defendant*, United States District Court for the Southern District of Florida, Fort Lauderdale Term. Accessed February 19, 2019. <https://law.justia.com/cases/federal/district-courts/FSupp/739/578/1610342/>

Lemoine, James. "Rap Singers Seized on Obscenity Charge." *The New York Times*. June 11, 1990. Accessed February 15, 2019. <https://www.nytimes.com/1990/06/11/us/rap-singers-seized-on-obscenity-charge.html>

Philips, Chuck. "Appeals Court Voids Obscenity Ruling on 2 Live Crew Album." *Los Angeles Times*. May 08, 1992. Accessed February 15, 2019. http://articles.latimes.com/1992-05-08/news/mn-1911_1_live-crew

Dr. Kim Warren to Discuss the 19th Amendment and Its Historical Impact

On **Monday, March 25 at 3:00 p.m.**, the National Archives in partnership with Park University, will host **Dr. Kim Warren** who will discuss the **19th Amendment and its Historical Impact** over the last 100 years as a part of Women's History Month. This program will take place in the McCoy Meetin' House on the Park University Campus, 8700 NW River Park Drive, Parkville, MO. Reservations are requested by calling 816-584-6209 for this **free program**.

On June 4, 1919, the 19th Amendment to the U.S. Constitution was passed by Congress, then ratified on Aug. 18, 1920. The amendment, which prohibits states and the federal government from denying the right to vote on the basis of sex, will be the focus of Warren's lecture. Warren, an associate professor in the Department of History at the University of Kansas, is a scholar of gender and race in African-American and Native American studies, history of education and U.S. history. She authored a book on African-American and Native American citizenship and served as an editor of a book on the transformation of the University of Kansas between 1965 and 2015. Her other publications include examinations of Native American masculinity and athletics, separate gender spheres ideology and African-American tourism in West Africa. Warren's second monograph, an investigation of Mary McLeod Bethune's political strategies to advance the movements of women and African-Americans in the Franklin D. Roosevelt administration, was supported by a postdoctoral fellowship from the Woodrow Wilson National Fellowship Foundation.



NATIONAL
ARCHIVES

KANSAS CITY

GENERAL INFORMATION: The National Archives is open Monday through Friday 8:00 a.m. to 4:00 p.m. Closed on weekends and Federal holidays. Hours are subject to change due to special programs and weather.

The National Archives is located at 400 West Pershing Road, Kansas City, Missouri, 64108. The National Archives at Kansas City is home to historical records dating from the 1820s to the 1990s created or received by Federal agencies in Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota. For more information, call 816-268-8000, email kansascity.educate@nara.gov or visit www.archives.gov/kansas-city. Tweet us @KCArchives or #KCArchives. Find and follow us on Instagram at: [kansascity.archives](https://www.instagram.com/kansascity.archives). Find us on Facebook www.facebook.com/nationalarchiveskansascity.