

LIBERTY

ACLU of North Carolina
Newsletter

Because Freedom Can't Protect Itself

acluofnc.org

Summer 2012

Volume 45, Issue 3

ACLU Seeks Equal Protection for LGBT Families

Federal Lawsuit Seeks Second Parent Adoptions for Six Same-Sex Couples and Their Children

Weeks after voters approved a discriminatory constitutional amendment to limit the rights of same-sex couples in North Carolina, the American Civil Liberties Union and the ACLU of North Carolina Legal Foundation (ACLU-NCLF) filed a federal lawsuit that seeks to expand legal protections for North Carolina families headed by lesbian, gay, bisexual or transgender (LGBT) couples. Filed on June 13 in Greensboro on behalf of six same-sex couples and their children, the ACLU's legal challenge, *Fisher-Borne, et al. v. Smith*, seeks to provide the children of same-sex couples with two legally recognized parents through a process called second parent adoption.



Elizabeth Gill, staff attorney for the ACLU's LGBT Project, speaks on the steps of the federal courthouse in Greensboro with plaintiffs and co-counsel during a June 13 press conference to announce a lawsuit challenging North Carolina's ban on second parent adoptions. Photo courtesy of Jeff Tiberi—North Carolina Public Radio.

A second parent adoption takes place when one partner in an unmarried couple adopts the other partner's biological or adoptive child. This can occur in both gay and straight relationships.

In December 2010, the North Carolina Supreme Court banned second parent adoptions for all couples. As a result, when a same-sex couple decides to raise a child together in North Carolina, only one of the parents is allowed to be that child's legal guardian, regardless of how much love, attention, time, and effort the other partner gives in raising the child. Often the "non-legal" parent cannot sign paperwork, visit their child in the hospital, include their child on a health insurance policy, or retain custo-

dy of their child in the event of the other partner's death.

The lawsuit the ACLU has filed on behalf of these families not only represents an opportunity to change this harsh and discriminatory law but also to tell the stories of loving and committed North Carolina families headed by same-sex couples. The six couples who are plaintiffs in the case are all shining examples of how gay and lesbian couples can provide stable and loving homes for children — and deserve equal protection under the law. See page 3 to learn more about the plaintiffs in the case or visit www.aclu.org/second-parent-adoption-nc. ■

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ACLU

AMERICAN CIVIL LIBERTIES UNION
of NORTH CAROLINA

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Are you a concerned citizen in the Charlotte area?

If you are interested in taking part in the planning process for a revised ACLU-NC chapter in Charlotte, please contact ACLU member Don Rosenthal at dbrosenthal@bellsouth.net.

Career Opportunity at the ACLU-NC Legal Foundation Development Director

Applications are currently being accepted.

For job duties, qualifications, and instructions on how to apply, please see our website at:

www.acluofnc.org

(The ACLU-NCLF is an equal opportunity / affirmative action employer. We encourage applications from all interested persons, including people of color, persons with disabilities, and LGBTQ persons.)

Six loving families with one shared wish: two legally recognized parents.

*Meet the plaintiffs in the ACLU's
second parent adoption case.*

Chantelle & Marcie Fisher-Borne



Marcie and Chantelle are both University of North Carolina Chapel Hill alumni and have been together for 15 years. They met in college in Louisiana and spent their summers in the North Carolina mountains. They always knew they wanted to make North Carolina their home and have lived in the Triangle area for 13 years. Chantelle, 37, grew up in Louisiana and Marcie, 37, grew up in Mississippi. Marcie works as the Director of Evidence-Based Practice for the American Cancer Society, and Chantelle is a non-profit consultant working on issues of community development and homelessness.

Each is the biological mother of one of their children: Marcie carried their daughter Miley, who is now 4 years old, and Chantelle carried their son Elijah, who is now 9 months old. When Miley was born in 2008, everything went smoothly until Marcie was sent to recovery. The first thing a nurse said to Marcie

was a gruff demand for Chantelle's legal paperwork. Fortunately, Marcie and Chantelle had brought copies of everything to the hospital, but they wonder what might have happened if they hadn't had their documents with them. "We carry copies of everything everywhere we go," Marcie said. "We never know when some emergency might mean we end up face-to-face with someone who doesn't look at us as a family."

Crystal Hendrix & Leigh Smith



Both lifelong North Carolinians, Leigh grew up in Greensboro, and Crystal grew up in western North Carolina, a short drive from their current home in Asheville. Crystal, 40, is an elementary school librarian, and Leigh, 38, is a kindergarten teacher who has been a stay-at-home mom for the past couple of years.

Together for seven years, Crystal and Leigh live in Asheville with their children, 2-year-old Quinn and baby Joe, who were carried by Crystal.

The family often visits Leigh's par-

ents, who live on a farm about an hour north of Greensboro and are doting grandparents. Unfortunately, Crystal's parents have never accepted her relationship with Leigh. Their rejection has been a source of hurt and anxiety for Crystal and Leigh. "I love my parents very much, but with second parent adoption banned in North Carolina, I really worry about what might happen to the children if anything were ever to happen to me," Crystal said.

Shana Carignan & Megan Parker



Shana and Megan are lifelong North Carolinians who met four years ago through mutual friends. Shana, 29, works at an HIV services nonprofit and Megan, 32, works as a home care provider for a woman with severe physical and developmental disabilities. In 2010, Megan adopted Jax, who was living in a group foster home in another state with 15 other children. Born to a mother with alcohol

(Continued on page 4)

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and substance use issues, Jax has cerebral palsy and suffered from reduced oxygen to the brain at birth. While Jax was set back further by a lack of early intervention treatments, Shana and Megan acted quickly to get him the services and treatments he so badly needed as soon as they brought him home. Now 4 years old, Jax is doing very well in preschool and is learning to communicate using a computer.

In the summer of 2010, Jax needed surgery. The fact that Shana does not have a legally recognized relationship to Jax made his hospital stay much harder on the family than it had to be. They had planned to take turns spending the night at the hospital with Jax, but the hospital refused to allow Shana to stay past visiting hours without Megan also being there. With no breaks for a good night's sleep, Megan stayed at Jax's side around the clock for an exhausting five consecutive days. "Megan didn't sign up to be a single mother," said Shana. "All I want is to be able to fully take on my responsibility as Jax's mom, too."

Terri Beck & Leslie Zanaglio



Terri, a staff recruiter at Duke University, and Leslie, director of operations at a benefits and investment consulting firm, have been together for 15 years and are proud moms to two brothers, 9 and 10 years old. The boys came to them from the state foster care system three years ago, where they had been taken after spending their first several years in an abusive, neglectful home. Terri, 49, and Leslie, 50, went through hours upon hours of classes, training, background checks, and home visits to qualify as foster parents, and the boys flourished upon finally

"It's so sad that our kids aren't able to have a legal relationship with their own mom."

-Lee Knight Caffery,
Charlotte

being in a loving home – but only Leslie was able to be named on their adoption papers. Because of their sons' background, Terri and Leslie are fiercely protective of their privacy – and also very concerned about what might happen to the boys should anything ever happen to Leslie. "It's terrifying to think about," said Terri. "We don't want them to ever worry that they might be taken from their home. They deserve complete stability and safety." After all the uncertainty and cruelty that marked their early lives, these two brothers deserve to feel completely secure in the loving home Terri and Leslie have worked so hard to provide.

Lee Knight Caffery & Dana Draa



Lee Knight, a 36-year-old lawyer, was working part-time at an outdoor gear store while studying for the bar exam in 2005. Dana, 41 – who served in the Navy during Operation Desert Storm, later served in the Naval Reserve and the Army National Guard, and now works for the Veterans Administration – had recently moved to Charlotte and gotten a part-time job at the same store in the hopes of making new friends who were also into outdoor activities. They met shortly after that and have been together ever since.

Lee Knight carried 3-year-old Miller and 1-year-old Margot. The only child of divorced parents, Lee Knight hasn't seen her father for nearly 20 years. While Lee Knight's mother is a supportive and devoted grandmother, Lee Knight and Dana worry about the children's future if something were to happen to both Lee Knight and her mother. "Dana does so much for our children, for everyone in our lives, and for our country," said Lee Knight. "It's so sad that our kids aren't able to have a legal relationship with their own mom."

Shawn Long & Craig Johnson



Together for 18 years, Shawn is an administrative coordinator at a nonprofit organization and Craig is a clinical program assistant at a pharmaceutical company. Lifelong North Carolinians, Shawn, 42, is from Bushy Fork, north of Durham, and Craig, 45, grew up just outside of Raleigh. Five years ago, Craig adopted Isaiah, who had been in and out of the foster care system before being permanently taken from his biological family. Together Shawn and Craig went through all the classes, training, background checks, and home visits necessary to qualify as foster parents, but because of North Carolina's second parent adoption ban, only Craig is a legally recognized parent to Isaiah.

Isaiah is now a thriving, active 10-year-old who loves video games and sports of all kinds, but especially soccer. Shawn jokes that Craig had to persuade him to become a dad, but now, he says, "I don't know why I hesitated for even a moment. I can't imagine life without Isaiah – he's everything to us." ■

Franklin County Board Agrees to End School-Sponsored Prayer

After the mother of a graduating senior at Franklinton High School in Franklin County told our office that she and her child objected to a planned Christian prayer that was to be part of their graduation ceremony, ACLU-NCLF Legal Director Chris Brook wrote to and met with the Franklin County Board of Education to explain that courts have repeatedly ruled that school-sponsored prayer is an unconstitutional violation of the First Amendment’s Establishment Clause. Following the ACLU-NCLF’s intervention, the board voted unanimously on May 29 to ban all future prayers at public school ceremonies in Franklin County in order to comply with the law and not alienate students of different beliefs. ■



ACLU-NCLF Legal Director Chris Brook is interviewed by ABC-11 following his testimony to the Franklin County Board of Education.

Report: Man Ejected From Courthouse for Wearing Religious Attire



Terrance Rhodes wearing a kufi.

The ACLU-NCLF is investigating a report that Terrance Rhodes (left) was ejected from a Lenoir County courthouse on March 22 when he refused to remove his kufi – a knitted skull cap commonly worn by Muslim men. Our office has contacted the Administrative Office of the Courts (AOC) to express concern about the report and to ask the AOC to provide copies of all written policies related to protecting the religious rights of litigants, witnesses, and observers in North Carolina courts.

Rhodes, who was observing court proceedings, says he was not asked to remove his kufi when going through the metal detector at the courthouse entrance, nor was he made aware of any dress code before he entered the courtroom. However, once inside the courtroom, a deputy asked him to remove his kufi. He informed the deputy that he was Muslim and wore the kufi in observance of his faith. Without any process or opportunity for redress, the deputy removed Rhodes from the courtroom and ejected him from the courthouse. ■

Anti-Hate Protest Goes Forward Following ACLU-NCLF Intervention

After a pastor at a church in Maiden, NC, gave a sermon in which he advocated rounding up gay and lesbian people and putting them behind an electrified fence so they would “die out,” a group of citizens in Catawba County worked to organize a protest against such hateful remarks. When county officials refused to grant them a permit to protest on public grounds, the group turned to the ACLU-NCLF for help. After two days of intense negotiations with officials that nearly resulted in litigation, ACLU-NCLF attorneys successfully convinced the county to grant Catawba Valley Citizens Against Hate a permit to hold a peaceful rally, which 2,000 people attended on May 27 without any problems. “We are truly thankful to the ACLU of North Carolina for standing with us to ensure that our voices can be heard,” organizer Laura Tipton said following the county’s decision. ■



Photo courtesy of Catawba Valley Citizens Against Hate.

Support the ACLU-NCLF by Making a Tax-Deductible Contribution Today!

Friends, we need your help. As you evaluate your budget and think about your charitable contributions for 2012, please put the ACLU-NCLF at the top of your list. The demand for our work has never been greater!

Yes! I want to help keep the Flame of Liberty burning brightly in North Carolina. Enclosed is a check for my tax-deductible contribution in the amount of:

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For more information or to charge your contribution on a credit card, contact Program Associate Kevin Eason at 919-834-3466 or keason@acluofnc.org. MasterCard and Visa accepted, and we offer monthly, quarterly, and semiannual giving options to fit your budget.

You can also make a contribution through the ACLU-NCLF's secure website at:

www.acluofnorthcarolina.org/?q=donate

Know Your Rights



ACLU-NCLF Legal Director Chris Brook (right) speaks alongside Mark Newbold, attorney for the Charlotte-Mecklenburg Police Department, during a July 28 panel discussion at UNC Charlotte to explain the rights of protestors and journalists at the upcoming Democratic National Convention. The panel was part of a symposium hosted by the Society for Professional Journalists. ■



Is Local Law Enforcement Tracking Your Vehicle?

The ACLU filed public records requests with 63 North Carolina agencies to find out.

The ACLU-NCLF joined 37 other state ACLU affiliates on July 30 in sending requests to local police departments and state agencies, seeking information on how they use automatic license plate readers (ALPRs) to track and record Americans' movements. The request was sent to 63 law enforcement agencies throughout North Carolina, including the counties of Alamance, Brunswick, Buncombe, Charlotte-Mecklenburg, Durham, Forsyth, Guilford, New Hanover, Orange, Pitt and Wake, as well as the cities of Asheville, Burlington, Cary, Chapel Hill, Durham, Fayetteville, Greensboro, Greenville, High Point, Raleigh, Wilmington and Winston-Salem.

In addition, the national ACLU and the ACLU of Massachusetts filed federal Freedom of Information Act requests with the Departments of Justice, Homeland Security, and Transportation to learn how the federal government funds ALPR expansion nationwide and uses the technology itself.

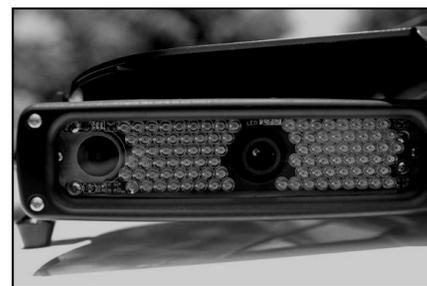
ALPRs are cameras mounted on patrol cars or on stationary objects along roads – such as telephone poles or the underside of bridges – that snap a photograph of every license plate that en-

ters their fields of view. Typically, each photo is time-, date-, and GPS-stamped, stored, and sent to a database, which provides an alert to a patrol officer whenever a match or “hit” appears.

“Automatic license plate readers make it possible for the police to track our location whenever we drive our cars and to store that information forever,” said Catherine Crump, staff attorney with the ACLU’s Speech, Privacy & Technology Project. “The American people have a right to know whether our police departments are using these tools in a limited and responsible manner or whether they are keeping records of our movements for months or years for no good reason.”

ALPRs are spreading rapidly around the country, but the public has little information about how they are used to track motorists’ movements, including how long data collected by ALPRs is stored and whether local police departments pool this information in state, regional, or national databases.

If ALPRs are being used as a tool for mass, routine location tracking and surveillance and to collect and store information not just on people suspected of crimes, but on every single motor-



Automatic license plate readers (ALPRs) are becoming an increasingly common tool for law enforcement to track vehicles.

ist, the American people should know that so that they can voice their concerns over such invasive practices.

ALPRs have already proven controversial. Just last month, the Drug Enforcement Administration withdrew its request to install ALPRs along certain portions of Interstate 15 in Utah after they were met with resistance by local lawmakers.

On a related note, earlier this year, the ACLU of North Carolina released public records from more than 40 law enforcement agencies across the state detailing different departments’ practices for tracking individuals’ cell phone locations and other data.

“The ability to track and record people’s movements presents a clear risk to privacy rights,” said Chris Brook, Legal Director of the ACLU-NCLF. “North Carolinians deserve to know if, how and when local law enforcement uses this still-evolving technology to track their movements and for how long any data collected on individuals is retained. Without proper safeguards, this technology could all too easily lead to profiling or the routine tracking of innocent people who have done nothing wrong.”

More information about the requests is available at: aclu.org/plates ■

“Without proper safeguards, this technology could all too easily lead to profiling or the routine tracking of innocent people who have done nothing wrong.”

– ACLU-NCLF Legal Director Chris Brook

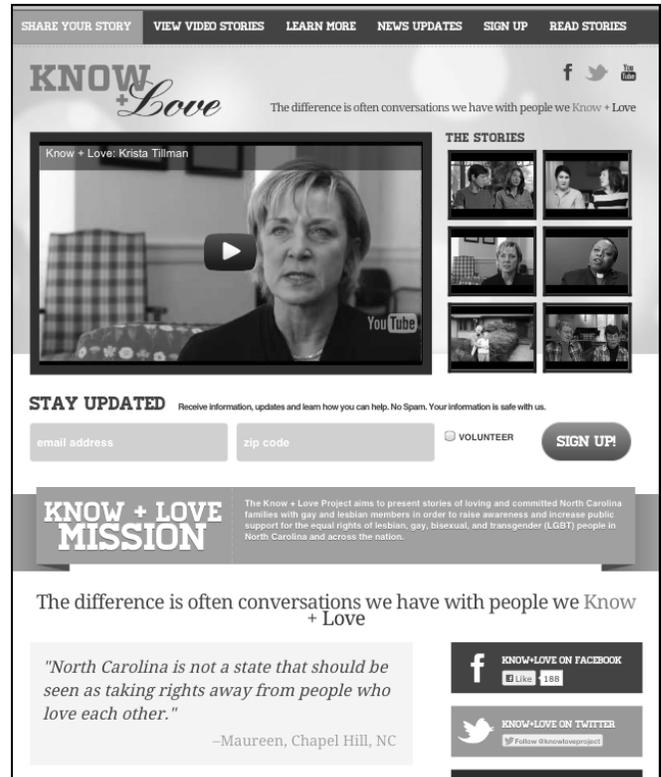
‘KNOW + LOVE’ Website A Tool for Families With LGBT Members to Share their Stories

“The difference is often conversations we have with people we KNOW + LOVE.”

Research has shown that people who know and are familiar with lesbian, gay, bisexual or transgender (LGBT) friends, neighbors, or family members are more likely to be supportive of equal rights. With that in mind, as part of our ongoing work to promote equal rights for LGBT North Carolinians, the ACLU-NC and Equality NC teamed up earlier this year to launch the “Know + Love Project” (knowandlove.org), a website that aims to present stories of loving and committed North Carolina families with gay and lesbian members in order to raise awareness and increase public support for the equal rights of LGBT people in North Carolina and across the nation.

The website encourages North Carolina families with LGBT members to submit and share their own stories through text, photos, and videos. It also allows users to promote the videos on social media sites and share the stories with their friends.

One Know + Love video of a lesbian couple from High Point who have been together for 45 years was so popular that it landed its subjects, Pearl Berlin and Lennie Gerber, a guest appearance on “The Last Word with Lawrence O’Donnell” on MSNBC. ■



KnowandLove.org

After Amendment One, the Fight Goes On



ACLU-NC Executive Director Jennifer Rudinger (right) speaks alongside allies at a press conference at the LGBT Center in Raleigh following the passage of Amendment One.

The ACLU-NC and our coalition allies pledged to keep fighting for equal rights for LGBT North Carolinians following the May 8 passage of Amendment One, which amended the state Constitution to ban civil unions and same-sex marriage. At a press conference following the disappointing outcome, ACLU-NC Executive Director Jennifer Rudinger called the vote “a temporary setback in the much larger campaign for equal rights.”

Rudinger stated: “The diverse and wide-ranging opposition to this discriminatory amendment has created an unprecedented and still-growing coalition of groups and individuals committed to LGBT equality in our state. This fight is not over. We are confident that the new partnerships, resources, and energy that came together to oppose Amendment One will continue working to expand freedom for all people in our state and confront attacks on civil liberties wherever they occur.

“Last night’s numbers might not reveal it, but the wind is at our backs. As public opinion continues to shift in favor of fairness and equality, it is no longer a question of if, but when, we will provide ALL our citizens with full and equal protection under the law.” ■

Legislature Guts Historic Racial Justice Act

A first-in-the-nation civil rights law that sought to address racial bias in North Carolina's death penalty system was gutted by lawmakers this summer, just months after a judge found widespread evidence of racial bias in sentencing and jury selection in state capital punishment cases.

The Racial Justice Act (RJA), which was passed in 2009 thanks to the work of the ACLU-NC and our allies, allowed death row inmates to use statewide statistical evidence to appeal their sentence and instead receive life without parole if they could demonstrate that race was a factor in their sentence.

In the first case ever tried under the RJA, North Carolina Superior Court Judge Gregory Weeks issued a landmark decision finding intentional and systemic discrimination by state prosecutors against African-American potential jurors in capital cases and commuted the sentence of death-row prisoner Marcus Robinson to life in prison without the possibility of parole. In his ruling, Judge Weeks found that prosecutors deliberately excluded qualified black jurors from jury service in Robinson's case, in Cumberland County and throughout the

state.

Unfortunately, on July 2, the General Assembly approved legislation that severely weakens the RJA by no longer allowing inmates to use statewide statistics such as those used in the Robinson case to show racial bias and appeal their sentences. The amended legislation, SB 416, was passed into law after lawmakers overrode a veto by Governor Bev Perdue. ACLU-NC Policy Director Sarah Preston called the move "a giant step in the wrong direction" that attempted to sweep evidence of racial bias under the rug "by allowing the state to ignore mountains of statistics pointing to the pervasive and disturbing role that race plays in jury selection and sentencing."

The heart of the statistical evidence presented in the Robinson case came from a comprehensive study by researchers from Michigan State University that showed that state prosecutors in North Carolina were significantly more likely to strike African-American potential jurors. In a related study, the researchers found that defendants are much more likely to be sentenced to death if the victim is white than if the victim is black.



Superior Court Judge Gregory Weeks issued an April 20 ruling that found widespread evidence of racial bias in North Carolina's death penalty.

Robinson, who is African-American, was convicted and sentenced to death for killing a white person. During his jury selection process, prosecutors struck from his jury 50 percent of the qualified black potential jurors while striking just 15 percent of qualified white potential jurors. As a result, Robinson's 12-person jury included just two African-Americans in a county where they make up nearly 40 percent of the population.

North Carolina, one of 34 states to maintain the death penalty, has the nation's sixth-largest death row. The vast majority of prisoners on the state's death row are black. ■

The ACLU-NC's 2012 Legislative Report Card

How did we rate your legislators on civil liberties?

Go online to acluofnc.org to find out.

Chapter Updates

Wake County

The Wake County Chapter of the ACLU will honor Christina Cowger with the W.W. Finlator Award and the Unitarian Universalist Fellowship of Raleigh with the Wake County Civil Liberties Award at this year's annual W.W. Finlator Awards Dinner.

This year's Finlator Award, presented annually since 1985 to an individual or individuals who have made significant efforts on behalf of the preservation, advancement or protection of civil liberties, will go to Christina



Christina Cowger, recipient of the 2012 W.W. Finlator Award

Cowger, a founding member and coordinator of North Carolina Stop Torture Now (NCSTN), the award-winning grassroots anti-torture network that has protested and brought attention to the role played by Aero Contractors, headquartered at the Johnston County Airport, in the CIA's "extraordinary rendition" program that detained dozens of Muslim men who were transported illegally, held secretly, and interrogated using many forms of torture. Cowger also devotes considerable time, energy and effort to represent the group on national human rights coalitions, to international

Mark Your Calendar!

ACLU of Wake County's Annual W. W. Finlator Awards Dinner

Thursday, November 15 at 6 p.m.

North Carolina State University Club

4200 Hillsborough Street, Raleigh

Questions? Contact acluofwake@gmail.com or (919) 834-4478.

ly recognized legal experts and human rights advocates, and in ongoing personal communication with the family of a victim and survivor of torture.

The Wake County Civil Liberties Award, presented occasionally to an organization or group of individuals that have demonstrated an exemplary commitment to civil liberties, will go this year to the **Universalist Unitarian Fellowship of Raleigh (UUFR)**. UUFR is a member congregation of the Unitarian Universalist Association that was formed in 1949 by a small group of individuals who wanted to establish a congregation that embraces diversity, open

dialogue and a commitment to social action. The congregation amplifies individual members' commitment to social action by creating opportunities for members ranging from direct service to those in need to advocacy for peace, fairness, equality and compassion. The congregation has adopted statements of conscience on marriage equality, the death penalty, sustainability, health care and school diversity, and was especially active in the drive to defeat Amendment One.

Questions about the dinner may be directed to: acluofwake@gmail.com or (919) 834-4478. ■

Western NC



More than 50 people attended the annual membership meeting of the ACLU's Western North Carolina chapter on May 20. Above, chapter board member Angelica Reza Wind (left) presents the annual Evan Mahaney Champion of Civil Liberties Award to representatives from Defensa Comunitaria, a community group that advocates for the Latino community in Buncombe County and elsewhere on issues involving law enforcement and undocumented immigrants. ■

“So long as we have enough people in this country willing to fight for their rights, we’ll be called a democracy.” — ACLU Founder Roger Baldwin

Your 2012 ACLU-NC/LF Board Members and Program Staff



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For over 90 years, the American Civil Liberties Union has defended the freedoms guaranteed in the Constitution and the Bill of Rights.

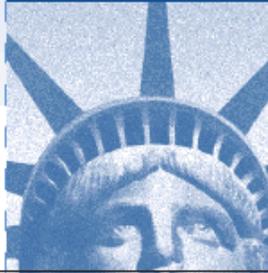
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