

"Bringing Down" The American Atheist Center

(All information in this document is taken verbatim
from the official records and the trial transcript in the suit discussed.)

Generally speaking, the laws in most states of the Union and the decisions of the U. S. Supreme Court hold that if a crime is reported to any law enforcement agency that the report, or complaint, is "privileged" communication. If you report a murder, a theft, a rape — the suspect cannot, generally speaking, turn around and charge you with either libel or slander for going to that law enforcement agency to report the crime.

In Texas, the situation has been somewhat different because of conflicting rulings in that state's courts. Some have held that this is a "qualified" communication only and that if "malice" be shown, or if it be shown that the report to the law enforcement agency was not made "in good faith," that the communication would not be protected. The commentary associated with the proposed "Uniform Code" laws, most legal theorists, and legal journals are highly critical of the laws still existing in some states (such as Texas) and feel that all such complaints or reports to law enforcement agencies should be protected as "privileged" communications. The most recent appellate case, in 1987, holds to the opinion that it is "privileged" communication.

In late September 1977 — that date is correct, ten years ago — two software tapes disappeared from The American Atheist Center on the day that a disgruntled employee, screaming and cursing, stomped in and out of The Center, causing a scene and bringing in her husband (an outside person) by an hysterical telephone call to him. The husband, barging into The Center, thoroughly cursed out and physically threatened the employees working there, while yelling that "Atheism is a crock of shit" and that Dr. O'Hair was "a fat Atheist slut." The employee herself not alone screamed about "you God damned Atheists" but threatened, patting her purse as she did so, that The Center could not

operate without her. She also yelled that "God will punish you [Atheists]."

This extended, traumatic incident covered the better part of the day. The next morning the software tapes (of a size that they could fit into a woman's purse) were not to be found in that employee's office in their usual place. *The tapes were never recovered and are missing to this date.* The software was absolutely vital to The American Atheist Center, which was severely impaired in its functioning for approximately five months as attempts were made to have the computer operations restored.

On October 25, 1977, on a return from an extended speaking tour, Dr. O'Hair, in good faith, convinced that the employee was involved in the disappearance of the software tapes, and deeply concerned with the threatened physical assaults on The Center's personnel, reported both incidents to the Austin Police Department.

On the following day, October 26, 1977, an article to this effect appeared in the Austin, Texas, *American-Statesman* newspaper.

Four months later, on February 13, 1978, a former mayor of Austin, purporting to be acting for the employee, sued both the Society of Separationists, Inc. and Dr. O'Hair for "slander."

The difference between "slander" and "libel" is that the former is "spoken," the latter is "written." The suit asked for \$20,000 actual damages and \$25,000 punitive damage. The attorney in a press conference insisted that "God is on our side," while the petition filed in the case actually stated that Dr. O'Hair had used "unchristian" words. Subsequently, during the trial which was had, the employee's husband, in the corridors of the Travis County Courthouse, bragged that the case was calculated to "bring down The American Atheist Center" and that the Atheists would understand "when this Christian jury gets done with you."

On the day of the trial, reporting to the Court, we were shocked to find that the judge from the 98th District Court had unaccountably been transferred to hear this case in the 126th District Court just hours earlier that very morning. This presented some problems since that judge had been involved in a highly emotional and widely publicized encounter with Dr. O'Hair about a month previous. She had been called for jury duty but had declined to be sworn in "so help me God," as required by Texas statutory law. (Tex. Rules of Civil Procedure, Rules 226 and 236.) The judge had ordered the bailiff to remove her from the courtroom and confine her in his chambers until the jury call had been handled. He shook with rage. Later he had her physically returned to the courtroom after his (illegal?) detention of her in his chambers and told her, his face ashen with emotion, that a jury had been impaneled without her presence in the courtroom and that she was dismissed.

With just moments to spare before the court was called to order, writing on a sheet of paper balanced on her knees, Dr. O'Hair prepared a motion asking for the judge to recuse himself (step down from the case) for bias. Ignoring all laws on the matter which required him to do so, (Tex. Rev. Civ Stat. Ann. Art. 200a [Supp. 1978]) the judge, as the case began, refused to grant the motion.

He then proceeded to jury selection with criteria which was calculated to create "the Christian jury" with which The American Atheist Center was threatened. The biased judge seated nine (of twelve required jurors) who stated, during their selection process, that they had an "aversion" (hatred) for Atheists, specifically and particularly for Madalyn O'Hair and the Society of Separationists, Inc. Also two other jurors stated that they believed that the testimony of Atheists was less reliable than that of Christians.