

**MARYLAND**

# Frederick wins obscene-books appeal

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CAPITAL NEWS SERVICE

The city of Frederick, Md., does not have to pay \$20,775.41 to a local adult bookstore for obscene books and videos that police seized in a 1990 raid, a federal appeals court has ruled.

The Tuesday decision by the U.S. 4th Circuit Court of Appeals reversed a 1993 U.S. District Court ruling that the city would have to repay Bradley Books for magazines, books, videos and equipment that police seized and later disposed of after the company did not reclaim them.

The appeals court upheld the lower court's finding that the 1990 raid was not a violation of the constitutional rights to free speech, due process and against unreasonable search and seizure.

An attorney for the bookstore's

owners, Pinkley Inc., could not be reached Friday, and a store worker would not comment.

The case began in 1989, according to court documents, when a city resident lodged a complaint against Bradley Books of North Market Street. Frederick Police investigated and got a search warrant after determining that the store was displaying and distributing obscene materials in violation of state law.

Police raided the store Feb. 7, 1990, seizing items deemed "obscene" by a corporal who no longer works with the department. Officers closed the store and arrested manager Paul G. Sobus, charging him with knowingly exhibiting and distributing obscene matter. No charges were filed against the store or Pinkley Inc.

Sobus pleaded guilty June 18,

1990. Typically, the next step after a conviction would be for the police to tell store owners that they had six months to reclaim the seized items. But because of a miscommunication within the department, the company was never told that it could get back its property.

Sixteen months after Sobus' conviction, the items were still in the department's evidence room. Officers, mistakenly believing the property had been abandoned and declared contraband, disposed of the books and films in the city landfill. The department kept some of the video and television equipment to use for training purposes.

In 1993, Pinkley filed suit in federal court claiming its constitutional rights had been violated in the raid. The district court in Baltimore disagreed, but said the city

did have to reimburse the bookstore more than \$20,000 for the lost merchandise.

Both the city and the bookstore appealed.

The city complained in its appeal that the bookstore's lawsuit never asked for reimbursement for the seized material, but that the district court added that claim on its own.

"The bottom line is that 'Pinkley' did not raise it in a timely fashion," said Howard Schulman, a lawyer for the city.

A three-judge panel of the appeals court agreed with the city, ruling Tuesday that "the district court abused its discretion" when it amended the bookstore's suit to include a claim for reimbursement. It sent the case back to the district court with orders to void the reimbursement order.