

Jury clears adult movies, but resident still protest

By CRAIG PIECHURA

A kind of cat-and-mouse game played over obscenity statutes trapped Linda Vasquez, 32, and Randolph Karcher, 26, last February.

Mrs. Vasquez, who collects the \$6 admission from people entering the Cabaret Cinema, took \$12 in cash from Southfield Police Det. Lowell Moore on Feb. 20. The plain-clothed officer and Det. Loun Doss then went inside to watch "China Sisters" and "Black Silk Stockings."

Karcher was upstairs manning the projector, making sure the films were in focus.

The next day, Southfield detectives came to the theater with a warrant to seize copies of the film as suspected obscene material. Mrs. Vasquez and Karcher, both of Detroit, were arrested on March 5 and arraigned on misdemeanor charges of showing obscene material.

Both defendants were acquitted Monday afternoon by a six-member jury — including five women — following a three-day trial in Southfield. The jury came to its decision in less than half an hour.

Earlier this year, Cabaret Cinema manager Norman Wilson, 49, and ticket seller Karen Jackson, 22, were acquitted on charges of distributing obscene material to minors. Defense attorneys argued successfully that neither person was the 15-year-olds enter the theater.

Exhibits introduced by prosecuting attorney Edward Ciber in the trial included copies of both films, which were viewed Friday afternoon by the jury in a closed screening at the Towne Theater in Oak Park. Two sex therapists were called in by defense attorney Steven Taylor to give expert testimony about how viewing sexually explicit material helps persons experiencing sexual problems.

AFTER THE VERDICT was announced by the foreman of the jury, members of the jury were asked what led them to decide the films weren't obscene and acquit Vasquez and Karcher.

While reluctant to explain their decision with a reporter, one person on the jury said one reason for acquittal was that there might be "some scientific" value to the films when viewed as a whole.

Besides the prosecutor, at least two

persons in the courtroom were dismayed by the verdict. Women who belonged to St. Alexander Catholic Church in Farmington Hills and the North Redford-Detroit Community Organization sat in court all three days monitoring the trial.

One of those women, Mary Taylor of Detroit, said she is worried that court cases won by the Cabaret Cinema will encourage similar establishments to spring up.

"I'm concerned that development of this sort that exists east of 8 Mile will move west, and eventually 8 Mile will become one long porno strip."

Under state law, for material to be classified as obscene it must meet all requirements of the following:

- That the average person applying contemporary community standards finds that the work taken as a whole appeals to a prurient (shameful or morbid) interest.

- That the work, taken as a whole, depicts or describes sexual conduct in a patently offensive way.

- That the work taken as a whole lacks serious artistic, political, literary or scientific value.

"It might have met some, but not all of the requirements (for obscenity)," said a jury member who refused to be identified.

One of the defense witnesses, Sandra Lee Fortier of Ann Arbor, a certified sex therapist who claims to have trained with Masters and Johnson in 1976, told jurors that "viewing sexually explicit materials gives (clients) a springboard to think about their sexual experiences."

WHILE CLIENTS may not approve of some things they see in the films, Mrs. Fortier said, the material often gets persons talking about their sexual preferences for the first time.

Mrs. Fortier and the other sex therapist, Dr. Loren G. Burt, said the films they use in their practice are educational films, not commercial fare such as "China Sisters" or "Deep Throat." But both therapists testified that commercial sex films can accomplish similar purposes — educating the public on the diversity of sexual activity and expression.

Commenting on scenes in the two confiscated films, Mrs. Fortier said most adults would "be bored and amused and think some of it's foolish rather than obscene."

Adult films can be an educational aid, said Mrs. Fortier.

"It's surprising the naive some couples go into marriage with," she said.

"I've had couples come in because they were having trouble trying to have children who were trying to have intercourse in the urethra instead of the vagina," she said.

Defense attorney Taylor supported Mrs. Fortier against claims by the prosecution that she was a "bored" person paid by theater owners to testify in obscenity trials. Taylor asked jurors to consider why the prosecutor hadn't produced any expert witnesses to state that the confiscated films were obscene.

Taylor asked Mrs. Fortier what she thought was obscene.

"Hurting living things and violence," she said. The sex therapist cited violence on the screen and in the football stadium as obscene. Adults forcing animals or children to have sex with them also qualified as obscene in her estimation.

In setting a contemporary community standard, jurors were reminded by 46th District Judge Norman Feder that "average person" in the statute means that jurors must consider the climate of the times, including "the religious with the irreligious, the prudish and most tolerant, the sensitive and the insensitive."

PROSECUTING attorney Ciber said the problem in obscenity cases is that nobody can agree on what constitutes obscene material.

In two recent obscene material cases brought against the Tip Top II bookstore in Hazel Park, jurors ruled that the material was obscene and had to be removed from the shelves, Ciber said.

"Today, we failed to show it was obscene," Ciber said. "But I think this 'China Sisters' and 'Black Silk Stockings' was even more graphic than the material judged obscene in Hazel Park."

"Each community is going to decide if they want it (sexually explicit material)," Ciber said. "When they say 'no' in a case like this, it's an expression that they don't mind it in their community. It's almost a stamp of approval."

In the hallway, before the verdict was announced, Ciber was asked why in two cases against the Cabaret Cinema the persons charged were theater employees, not the owner.

"What do they suggest — indict a corporation?" Ciber said. "With a cor-

poration, all you can do is fine them."

Ciber said it is the hope of police and prosecutors "that the word will get out" to current and prospective employees of X-rated bookstores and movie theaters that persons working in these places run the risk of being arrested.

POLICE and prosecutors say they don't know who owns the Cabaret Cinema. Lessor of record on city files is Edward Shumate, who it is believed has subleased the building to a group known as Michigan Cabaret Theater, Inc. Three officers listed on state corporation papers are James Mulvihill, Sharon Gahlan and Rebecca A. Landers, all employees of a downtown Detroit outfit called The Corporation Co., which acts as resident agent for other companies, according to assistant city attorney Phil Poole.

The two Cabaret employees acquitted Monday said their paychecks read Michigan Cabaret Theater Inc. and both said they didn't know who owns the theater.

Both said they took the job at the theater because they needed a job and said they intended to continue working at the Cabaret even if the jury had decided to convict them. The misdemeanor carries a maximum penalty of one year in jail and \$1,000 fine.

"When I was hired I wasn't told I'd be arrested," said Mrs. Vasquez outside the courtroom. "Was I surprised when I was? Not really. Police officers were in there beforehand."

"I HAVE 10 children to support and it's a job. No matter how anybody else looks at it, it's a job."

She said she doesn't view the films; she takes admission. Mrs. Vasquez said violence in Saturday morning cartoon shows disturbs her, as a mother, more than the sexual content of movies viewed by consenting adults.

"How about 'Superman'?" she said.

"That's rated PG and kids see him fly-

ing off a building. How many kids will try that?"

Asked if they thought persons viewing films shown at the Cabaret might try some of the sadistic sexual activities portrayed in some scenes, the employees said the persons in the film are only acting and bondage scenes represent erotic fantasies not meant to be acted out by viewers.

"The movie isn't doing it, it's the person," said Mrs. Vasquez. Projectorist Karcher, who calls himself "almost a born-again Christian," said he stays on at the theater not just because it's steady income but because he's seen couples who have been helped by the films.

A man and wife in their late '60s, an old couple, watched the movies and walked out arm-in-arm with big smiles on their faces," Karcher said. "I saw them again a couple days later and when they saw me they said 'We never had so much fun before. We decided to come back tonight.'"

Even before the acquittal, Karcher said he wasn't worried about the out-

come. He didn't expect to do any jail time, and the company had agreed to pay the fine and hire an expert attorney to defend him.

ALL INDICATIONS from police are that this is not the last time the Cabaret Cinema will be in court defending employees on obscenity charges. During a recess in the trial Monday, prosecutor Ciber asked defense attorney Taylor's assistant, Carl Rubin, what was playing that day at the Cabaret.

"Easy and 'The Other Side' of Julia," Rubin said.

"Maybe I'll see you on those," said Ciber.

"Always looking forward to it," Rubin said. "I appreciate it. Kids gotta eat."

As for the judge, after the jury ruling on Monday, Feder said that while he has personal opinions about pornography, "I am not a policeman."

Reflecting on the wide ramifications of the First Amendment and the dangers of censorship, Judge Feder said: "Sometimes, unfortunately, the bad gets protected to protect the majority."

Wage suit against construction firm

E.D. Construction Co., 28266 Grand River, Farmington, has been named in a complaint filed by the U.S. Department of Labor in Michigan Federal District Court.

The complaint alleges violations of the overtime pay and recordkeeping provisions of the Fair Labor Standards Act, which is the federal wage-hour law.

William Van Zanen, Chief of the Labor Department's Regional Wage and Hour Division, said the department is seeking a permanent injunction to stop

the alleged violations of the Act.

The court was asked to award back pay as well as to be due, and an additional equal amount as liquidated damages. No amounts were specified in the complaint.

Legal action followed an investigation of the business by the Labor Department's Wage-Hour Area Office, 231 West Lafayette St., Detroit, under the supervision of Von Reynolds, area director.

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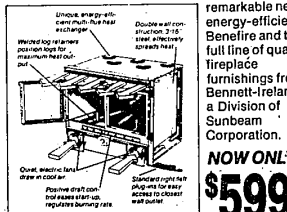
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