

# Publisher Flynt Convicted, Fined in Obscenity Case

By Art Harris

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ATLANTA, March 28—Husler magazine publisher Larry Flynt was found guilty today of distributing obscene material and sentenced to a suspended 11-year prison term—one year for each count—provided he pay a \$27,500 fine and keep his magazine out of Georgia.

After nine hours and 40 minutes of deliberation over two days, a state court jury of four women and two men reached its verdict at 3 p.m. today—guilty on all 11 of the misdemeanor counts.

There was a gasp from the courtroom audience, but the crippled Flynt, sitting in his wheelchair, showed no emotion as each juror was polled.

At first, "we were divided," juror Tommy L. Hornsby said afterward. "Some felt it was obscene, some felt it wasn't. It was hard to understand the law."

Flynt's attorneys asked that sentencing be put off for 30 days until they could submit a medical fitness report to the court, but Flynt asked to be sentenced immediately.

Fulton State Court Judge Nick Lambros then imposed the maximum sentence of 12 months on each of the counts, to run consecutively, plus a \$2,500 fine for each. Lambros said he would suspend the prison term if Flynt paid the fine and did not "violate the laws of Georgia" again.

Hustler magazine and its companion, Chic, which specialize in raunchy centerfolds, scatological humor and occasional political muckraking, are in effect banned in Georgia. If Flynt attempts to sell them again, he could go to jail. In 1977 he leased a book store on Peachtree Street, began hawking autographed copies of Hustler and dared Fulton County Solicitor (county prosecutor) Hinson McCauliffe to arrest him, which he did.

Flynt directed his chief attorney

Herald Price Fahringer of Buffalo, N.Y., to pay the fine by Friday, but said the verdict would be appealed, all the way to the Supreme Court, if necessary.

The red-haired, 36-year-old Flynt, who is also free on appeal from a similar sentence handed down by an Ohio court in 1977, was whisked into the courtroom from a nearby hotel to hear the verdict. He was paralyzed from mid-thigh down in an ambush shooting during another pornography trial in nearby Lawrenceville, Ga., last year that was later declared a mistrial.

The state contended Hustler and Chic violated Georgia's obscenity laws by catering to "shameful and morbid" interests in nudity, sex or excretion.

Before the jury retired to deliberate and examine the magazines for the first time at 3:35 p.m. Tuesday, prosecutor Leonard Rhodes, 51, an assistant county solicitor with a long, jowly face that blushed during his frequent objections, urged the panel to send a "message to all Larry Flynts of the world that Fulton County will not be a dumping ground for filth and trash."

"You are the conscience of the community," he declared.

Flynt has tried to portray himself as a fearless fighter for First Amendment rights, while prosecutor McCauliffe has fashioned himself a straitlaced guardian of society, ineffect a defender against moral decay. "It was a great victory for decency," said McCauliffe after the verdict.

Since he began trying to close down Atlanta's adult bookstores 10 years ago, along with such movies as "Last Tango in Paris" and the musical review, "Oh, Calcutta," McCauliffe has moved against such general circulation magazines as Penthouse and Playboy, at one point trying to extradite their publishers, Hugh Hefner



Larry Flynt leaves Atlanta courts in wheelchair after being found guilty.

and Bob Guccione, for trial in Atlanta.

Gerry Adler, a Chicago-based attorney for Hefner and the Playboy Corp., said Playboy will fight "every step of the way," even though pornography charges personally brought against Hefner have been dropped.

Adler said if McCauliffe's "position prevails, you couldn't sell national magazines in Fulton County without him taking scissors to them." Playboy and Penthouse are still sold in the Atlanta area, but Hustler has been withdrawn by distributors in response to the solicitor's court action.

Defense Attorney Fahringer, who said he thought the strongest grounds for appeal would be the "complete exclusion of evidence on community standards" from the jury, claimed the case represented a clear choice between American freedom as expressed in the First Amendment and tolerance by a majority over an emotional subject.

But Lambros said there were no First Amendment issues involved, and repeatedly refused to allow the defense to introduce testimony on community standards.