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FOR IMMEDIATE RELEASE: Friday, September 22, 2017

City of Marion Changes Its Unconstitutional Free Speech Ordinance

Marion, Iowa — The Marion City Council last night revised its unconstitutional ordinance that led to a lawful political demonstrator being prevented by police from holding a political sign in a sidewalk area along a Marion street.

In September 2016, Rick Stewart was doing what he correctly thought was his First Amendment right to do: Stand in a pedestrian area in the community of Marion and hold a political sign in support of a presidential candidate.

But City of Marion police stopped him and told him that he would need to have a special permit—which required at least 72-hour's notice—just to stand on a sidewalk and hold that political sign. Police said they were enforcing the city's public demonstration ordinance (Code Section 42.08, entitled "Parades, Marches, Walks, and Demonstrations"), which the police officers provided to Mr. Stewart on site.

After Mr. Stewart contacted the ACLU of Iowa, it sent a demand letter on his behalf. The letter asked that police immediately stop enforcing the ordinance to give the town the time needed to make changes so that it would not violate First Amendment free speech and assembly rights. In response, in January the city announced it would cease enforcement of the ordinance.

The ACLU and the city have been working together on draft language for a new ordinance, and the city is expected to vote to act on the new ordinance. Three readings are required to pass the new language, and the final reading and passage of the ordinance happened last night

Rita Bettis, ACLU of Iowa legal director, said she was "very pleased" that the city voted to revise the problematic ordinance. "We commend the City of Marion for taking needed action to protect the First Amendment rights of demonstrators like our client, which include the right to exercise free speech on public sidewalks without a permit, so long as demonstrators don't interfere with the ability of other pedestrians to use the space or pass by."

Bettis added, "In our democracy, we recognize that the exercise of political speech, and especially dissent, is a source of strength, not weakness. We're grateful our client was willing to stand up for his rights and the rights of others, and recognize the City of Marion for being willing to change to improve its ordinance to protect those free speech rights."

In Mr. Stewart's case, there were only three picketers present, and they were not interfering with anyone else's use of the pedestrian areas. They even offered to move to a different sidewalk if the officer preferred, but the officer instead reiterated that unless they had a permit, they could not picket. That violated their free speech rights.

Stewart said he's glad that the city has revised the ordinance. "I knew I had to stand up for free speech when my own rights were denied under the existing ordinance. I congratulate the City Council for making this important change. The First Amendment protects all of us, and I felt that it was my responsibility to vigorously defend it, not just for myself, but for my children and grandchildren."

Click below for a Google folder that contains photos of Mr. Stewart, Ms. Bettis, the ACLU of Iowa logo, and a pdf of this press release.

<https://drive.google.com/open?id=OB5kehbsBXajnMEVYWEIGQTdZckk>

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