FOR IMMEDIATE RELEASE: Tuesday, August 15, 2017

City of Marion to Revise its
Unconstitutional Public Demonstration Ordinance

Marion, Iowa — The Marion City Council plans to review its unconstitutional public demonstration ordinance at its work session tonight and at its council meeting Thursday, August 17. That ordinance led to a lawful political demonstrator being prevented by police from holding a political sign in a pedestrian 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 Marion, Iowa, 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 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 a first reading of the new language is planned for the Thursday night city council meeting.

Rita Bettis, ACLU of Iowa legal director, said she was "very pleased" with the wording of the proposed ordinance that she has seen. "It appropriately recognizes that the First Amendment protects the rights of demonstrators to exercise their speech rights on public sidewalks without a permit, so long as they are not interfering with the ability of other pedestrians to use the space or the rights of others."

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 the city is reworking 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."

Bettis added, "In our democracy, we recognize that the exercise of political speech, and especially dissent, is a source of strength, not weakness. We are thankful to our client for standing up for his rights and the rights of others under the Constitution, and to the City of Marion for recognizing the need for change to improve its laws and practices in the area of free speech."

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