



Madison Chapter  
<http://nlgmadison.org>

## **Capitol Singer Prosecution Dismissed by Dane County Court Rule Requiring Permits for Small Groups Violates Constitution**

FOR IMMEDIATE RELEASE: February 5, 2014

CONTACT: Patricia Hammel, [patricia@herricklaw.net](mailto:patricia@herricklaw.net) (608) 279-4136

MADISON, WI – Dane County Circuit Court Judge John Markson today dismissed civil forfeiture prosecutions against Michael Crute and John Bell, finding that the administrative rule they were accused of violating was unconstitutional. Both were arrested July 24 at the beginning of six weeks of mass arrests of people singing in the Wisconsin State Capitol by Capitol Police for “unlawful assembly.” Relying on the opinion issued July 8 by U.S. District Court Judge William Conley in Kissick v. Huebsch, Erwin et. al, a case challenging the permit requirements, Judge Markson found the rule against failing or refusing to withdraw from “unlawful events” to deprive Mr. Crute of his right to free speech because “It is not narrowly tailored to the legitimate state interest of preserving order in the State Capitol.”

Writing that the Wisconsin Dept. of Administration’s case “is about the state’s seeking to exact a penalty from a citizen who was exercising his right to free speech and assembly...” Judge Markson also stated concerns about the difficulty for citizens seeking to determine whether a permit would be needed to bring a small group to the Capitol when they could not know if their group was “anticipated to attract” more than 20 people, subjecting them to arrest. The judge asked why the Dept. of Administration, which had written the rule as an “emergency” rule in April 2013, did not respond to the Kissick ruling by re-writing another “emergency” rule which would address the deficiencies found by the federal court before beginning large scale arrests of individuals in the Capitol rotunda July 24, 2013.

At a hearing January 23 involving eight defense attorneys and twelve defendants including Madison attorney Jeff Scott Olson on behalf of Mr. Crute, the judge stated that of approximately 1,100 civil forfeiture citations issued in Dane County in 2013, about 400 were issued to people singing in the Capitol. Dane County judges have expressed frustration over the strain on the courts posed by over 160 defendants who have nearly all requested jury trials in these cases. In other cases on January 31 2014, Judge Peter Anderson ordered the Dept. of Administration to submit a “cost benefit analysis” of continuing to prosecute the citations despite the expiration of the “emergency” rules in September and the continued uneventful singing by citizens opposed to the Scott Walker administration.

“The First Amendment still lives in Wisconsin’s Capitol today,” responded Attorney Patricia Hammel, vice chair of the Madison National Lawyers Guild and attorney for Karen Matteoni, one of the defendants with cases pending before Judge Markson. “We expect all singers’ prosecutions to be dismissed.”

Anyone needing legal assistance for arrests while singing or observing singing at the Capitol can call the NLG at 608-520-0654. The coordinators will then attempt to find legal representation for the person who has been arrested.

The National Lawyers Guild is a national organization of lawyers, legal workers, law students, and jailhouse lawyers. The NLG represents progressive political movements, and its motto is that human rights are more sacred than property interests. ###