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For immediate release: **August 15, 2013**

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City Upholds First Amendment Rights at Free Speech Plaza: Curfew Unconstitutional

EUGENE, OR: Eugene Municipal Court Judge Karen Stenard issued a ruling upholding the rights of protestors to hold 24-hour protests at the Wayne Morse Free Speech Plaza in downtown Eugene. The case arose after former defiled Lane County Administrator Liane Richardson secretly amended a Lane County administrative regulation that imposes a nighttime curfew eliminating the right to assemble and protest at a traditional public forum. On January 7, 2013, twenty-one protestors took a stand to challenge the unconstitutional curfew and were arrested by Eugene Police. Lawyers with the Civil Liberties Defense Center filed motions with the Court challenging the constitutionality of the curfew and subsequent arrest of the activists.

The City Judge noted that it was unusual to have a situation where Lane County was ordering City Police to arrest people based on a County regulation. As argued by the CLDC, the court ruled: “The Court finds that when balancing the stated governmental interest with the impact it has on the right to assemble, the curfew does not withstand constitutional scrutiny when applying even the least stringent, content and speech neutral analysis to this group of defendants.... [E]nforcement of a curfew which closes the very area that the County designated “Free Speech Plaza” (much of which is barely distinguishable from a sidewalk) for a third of every day significantly limited Defendants’ rights to speech and assembly, regardless of the curfew’s intent.”

The Court declined to make a broader ruling that would have struck the entire Lane County rule as unconstitutional due to the concern that it did not have jurisdiction as a City Court to invalidate a County regulation. However, the ruling makes it clear that the County cannot evict or arrest lawful protestors from the Plaza at night.

“We are hopeful that these rulings send a clear message to Lane County that they cannot eliminate constitutional rights because they do not like the inconvenience that protest sometimes brings about. Democracy and free speech can be acrimonious at times, but that does not give the government the right to silence the people. The Constitution is not suspended from 11pm to 6am and curfews are a serious restriction upon the rights guaranteed to all of us.” Said lead attorney Lauren Regan of the Civil Liberties Defense Center. “We look forward to working with the acting County administrator to reinstate and reinvigorate the First Amendment rights of everyone in this community in an attempt to avoid another lawsuit against the County. This is not a community that will tolerate censorship, and with the help of amazing activists like these, the CLDC will assist in zealously defending the rights of the people to exercise First Amendment rights to the broadest extent possible.” Regan added.

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