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For more information: Jacqueline Greene (216) 241-1430

RNC Protesters Fight Flag Burning Cases, Calling for City to Dismiss All Charges at Hearing, Chief of Police Calvin Williams to Testify

CLEVELAND, OHIO – RNC Protesters call on the City of Cleveland to dismiss all charges against them for flag burning during the RNC in July 2016.

On January 11, 2017, the City of Cleveland dismissed criminal charges against two of the RNC Protesters, including Gregory “Joey” Johnson, who was also the defendant in the 1989 Supreme Court case that established flag burning as protected speech activity under the First Amendment.

The remaining twelve RNC Protesters facing charges in the Cleveland Municipal Court will present evidence at a full hearing on Thursday, January 26, 2017. Witnesses, including Chief of Police Calvin Williams, have been subpoenaed to testify.

The motions to dismiss filed in each of these cases on September 14, 2016 asked the Court to dismiss all charges because of constitutional violations committed by the City of Cleveland’s Division of Police. The Court will decide whether to grant the Protesters’ motions after hearing evidence in the case on Thursday.

This hearing is the first of its kind following Donald Trump’s inauguration. President Trump notoriously tweeted on November 28, 2016 that protesters who burn the American flag should be punished with a loss of citizenship or a year in jail. But burning the flag has long been indisputably recognized as a free speech activity, protected by the First Amendment. Flag burning is unquestionably not a criminal act in the U.S.

The events leading to these arrests and subsequent criminal charges occurred during the Republican National Convention, held in Cleveland, Ohio from July 18 through 21, 2016. On the afternoon of July 20, 2016, dozens of protesters gathered near East 4th Street and Prospect Avenue with the purpose of burning an American flag as an expression of their political views in protest of the Republican Party and then-presidential nominee Trump.

The City of Cleveland intervened immediately as the flag was lit. Chief of Police Calvin Williams and several other officers pushed into the circle of protesters. The Cleveland Division of Police subsequently arrested sixteen individuals who participated in the flag burning, held them in jail for approximately 30 hours, and then filed criminal charges against them.

This intervention, as the RNC Protesters argue in their motions to dismiss, violated their constitutional rights, including the rights to freedom of speech and freedom of association and assembly.

The RNC Protesters have continued to actively fight these criminal charges from the time of their arrests. More than 40 local attorneys with the Ohio Chapter of the National Lawyers Guild, the Cleveland Branch of the NAACP, and other affiliated lawyers volunteered to defend these protesters against the criminal charges on a pro bono basis.

The City of Cleveland was obligated under the law to protect the rights of protesters, including the right to burn the flag. “This content-based policing is unconstitutional and utterly unacceptable. The Ohio Chapter of the National Lawyers Guild stands in solidarity with progressive and leftist protesters who attempted – and were prevented from – the exercise of their free speech rights,” stated Jacqueline Greene, Co-Coordinator of the Ohio Chapter of the National Lawyers Guild and partner at the law firm of Friedman & Gilbert, as well as one of the lawyers who filed motions to dismiss. “The City is frivolously spending tax dollars to prosecute these cases in an attempt to cover up the unconstitutional actions of the police,” Greene said.

Lawyers with the Ohio Chapter of the NLG and the Cleveland Branch of the NAACP and other volunteer attorneys also fought the arrests and charges brought against protesters in Cleveland last year, and were successful in obtaining dismissals of cases against protesters who took to the streets on May 23, 2015 in outrage at the acquittal of Cleveland Police Officer Michael Brelo, who had been charged with various crimes related to the fatal shooting of Timothy Russell and Melissa Williams in 2012.