

OCT 30 2007

FILED

STATE OF MINNESOTA
IN COURT OF APPEALS

LARRY EDWIN CRAIG,)	
)	Case No. A07-1949
Appellant,)	
)	REQUEST FOR LEAVE TO FILE
v.)	BRIEF OF AMICI CURIAE
)	AMERICAN CIVIL LIBERTIES UNION AND
STATE OF MINNESOTA)	AMERICAN CIVIL LIBERTIES UNION OF
)	MINNESOTA
Respondent.)	
_____)	

TO THE COURT OF APPEALS OF THE STATE OF MINNESOTA AND COUNSEL
FOR ALL ABOVE-NAMED PARTIES:

Pursuant to Minnesota Rule of Civil Appellate Procedure 129, Applicants
American Civil Liberties Union (ACLU) and American Civil Liberties Union of
Minnesota (ACLU of Minnesota) respectfully request that this Court grant them leave to
participate in this case as amici curiae.

I. STATEMENT OF APPLICANTS' INTEREST.

Applicants' interest is public in nature. The ACLU is a nationwide, nonprofit,
nonpartisan organization with over 500,000 members, and the ACLU of Minnesota is its
Minnesota affiliate. Their members share a commitment to the defense of the rights that
are guaranteed by the United States Constitution. Among the most fundamental of these
rights is the right to free expression. The free expression concerns that this case presents

are of significant interest not only to Appellant but also to every individual who risks arrest, charge, and/or prosecution for inviting another individual to have sex.

II. STATEMENT OF PARTY TO BE SUPPORTED AND POSITION TO BE TAKEN.

If this Court were to grant them leave to participate in this case as amici curiae, Applicants would file a brief in support of Appellant suggesting reversal. Appellant pled guilty to a violation of Minn. Stat. § 609.72(1)(3), a criminal prohibition of disorderly conduct. Because Minn. Stat. § 609.72(1)(3) is impermissibly overbroad and impermissibly vague, it violates the right to free expression guaranteed by the First Amendment to the United States Constitution. Because Appellant pled guilty to a violation of an unconstitutional law, Appellant must be allowed to withdraw his guilty plea to correct a manifest injustice.

III. STATEMENT OF REASONS WHY APPLICANTS' PARTICIPATION IN THIS CASE AS AMICI CURIAE IS DESIRABLE.

Applicants' participation in this case as amici curiae is desirable for multiple reasons. As stated above, this case squarely presents concerns of constitutional magnitude that significantly affect interests of numerous individuals who are not parties to this case. Because Applicants regularly appear in cases involving the right to free expression and are otherwise expert in free expression jurisprudence, they are well-positioned to address these concerns and represent these interests. Moreover, after granting Applicants leave to file a brief in support of Appellant, the trial court, in the course of ruling against Appellant, expressly rejected Applicants' argument, contrary to

binding precedent. Applicants are uniquely positioned to speak to the trial court's error in rejecting their argument.

IV. CONCLUSION

For the foregoing reasons, Applicants respectfully request that this Court grant them leave to participate in this case as amici curiae.

Dated: October 30, 2007.

Respectfully submitted,



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