

STATE OF MINNESOTA  
IN COURT OF APPEALS

OFFICE OF  
APPELLATE COURTS

NOV -7 2007

CASE TITLE:

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FILED

State of Minnesota,

Respondent,

vs.

Larry E. Craig,

Appellant.

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**STATEMENT BY RESPONDENT  
CLARIFYING APPELLANT'S  
STATEMENT OF THE CASE**

Appellate Court Case No. A07-1949

Pursuant to Minn. R. Civ. App. P. 133.03, the following is intended to clarify and/or supplement the Statement of the Case filed by Respondent. Only those portions of the Appellant's Statement of the Case which require clarification or supplementation have been included. As to whether the matters are being supplemented or clarified, the same is noted. In all other respects, the Appellant's Statement of the Case is adopted.

2. **Jurisdictional Statement.** Supplement: If any rule authorizes Appellant's appeal from the District Court Order, it is Minn. R. Crim. P. 28.02, subd. 2(2). A sentence has been imposed in the matter.
3. Supplement: The case is in regards to a plea of guilty to the crime of Disorderly Conduct under Minn. Stat. § 609.72.
4. Clarification: The Appellant executed a plea agreement on August 1, 2007 after conversations with the prosecutor and after having been sent the complaint containing the allegations against him. In and by virtue of the plea agreement, Appellant pled guilty to misdemeanor disorderly conduct under Minn. Stat. § 609.72, subd. 1(3). Appellant mailed to the prosecutor the executed plea petition, a money order in the amount of the unstayed fine and costs, and a note of appreciation. The prosecutor filed the petition with the Court on August 8, 2007, the date of the Appellant's first appearance. The plea was entered with the approval of the district court judge presiding over the calendar on August 8, 2007.

Appellant filed a motion to withdraw his plea under Minn. R. Crim. P. 15.05 on September 10, 2007 contending that Appellant's plea should be withdrawn to avoid manifest injustice because his plea was not accurate, voluntary or intelligent. A hearing at which oral argument was presented was heard on September 26, 2007.

In addition to Appellant's previous arguments, Appellant argued that there was a procedural defect with the plea because there was no signature on the plea by a judge. Amici curiae American Civil Liberties Union and American Civil Liberties Union of Minnesota were granted permission to participate in the district court proceeding and contended that the Disorderly Conduct statute could not be constitutionally applied because it infringed on speech. Appellant never made any argument, either in writing or orally at the hearing, regarding the constitutionality of the Disorderly Conduct statute. Respondent filed a motion to strike the memorandum of the amici curiae contending both that it was not appropriate at the district court level and that amici curiae were improperly inserting issues beyond those placed at issue by Appellant. On October 24, 2007, the District Court issued an order denying Respondent's motion to strike the amici curiae memorandum and denying Appellant's motion to withdraw his plea. The District Court found that the Appellant's plea was accurate, voluntary and intelligent and was supported by the evidence. The District Court further found that the amici curiae's arguments were inapplicable, potentially misleading, and without merit.

7. Clarification: A full transcript is necessary to review the issues on appeal, particularly as certain of the issues proposed to be raised by Appellant were only raised by oral argument at the hearing. A transcript has been ordered from the court reporter within the time set forth in Minn. R. Crim. P. 28.02, subds. 8, 9 and Minn. R. Civ. App. P. 110.03. Upon information and belief, a certificate of delivery has been filed with the Court of Appeals by the court reporter.

Respectfully Submitted,

Dated: Nov. 7, 2007

By  \_\_\_\_\_  
Christopher P. Renz  
Attorney I.D. No. 0313415  
Attorney for Respondent State of Minnesota  
Thomsen & Nybeck, P.A.  
3300 Edinborough Way, Suite 600  
Edina, Minnesota 55435  
Telephone No. (612) 835-7000

STATE OF MINNESOTA  
COURT OF APPEALS

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State of Minnesota,

Plaintiff,

**CERTIFICATE OF SERVICE**

Trial Court Case No.: 27-CR-07-043231

vs.

Court of Appeals No.: A07-1949

Date of Order: 10/4/07

Larry Edwin Craig,

Date Judgment Entered: 10/4/07

Defendant.

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Melissa A. Johnson of the City of Buffalo, County of Wright, State of Minnesota, says that on November 7, 2007 she served the following:

**RESPONDENT'S NOTICE OF REVIEW**

upon:

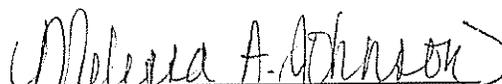
William R. Martin, Esq.  
Kathleen H. Sinclair, Esq.  
Sutherland Asbill & Brennan, LLP  
1275 Pennsylvania Ave. NW  
Washington, DC 20004-2415

Teresa Nelson, Esq.  
American Civil Liberties Union and  
American Civil Liberties Union of  
Minnesota  
450 N. Syndicate St., Suite 230  
St. Paul, MN 55104

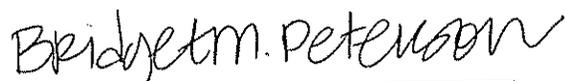
Thomas M. Kelly, Esq.  
Kelly & Jacobson  
220 South Sixth Street, Suite 215  
Minneapolis, MN 55402

the attorneys for Defendant Larry Edwin Craig and the amici curiae ACLU/ACLU-MN in this matter, via United States Mail by placing a copy in an envelope, postage prepaid, and by depositing the same in the post office at Edina,

Minnesota, directed to said attorneys at the above-stated addresses, the last known addresses of said attorneys.

  
Melissa A. Johnson

Subscribed and sworn to before me  
this 7<sup>th</sup> day of November, 2007.



Notary Public



GORDON V. JOHNSON  
JOHN K. BOUQUET  
MARK G. OHNSTAD  
DONALD D. SMITH

WILLIAM E. SJOHOLM  
THOMAS R. KELLEY  
ROBERT D. LUCAS  
DAVID J. M'GEE

DENNIS M. PATRICK  
GRETCHEN S. SCHELLHAS  
CHRISTOPHER P. RENZ  
MATTHEW A. DREWES

BRAD J. BOYD  
RYAN J. WOOD  
DEBRA M. NEWEL  
NATALIE R. WALZ  
IVOR L. RUUD

OF COUNSEL:  
JACK W. CARLSON  
TODD R. HUFF

RETIRED:  
JAMES VAN VALKENBURG

DECEASED:  
HELGE THOMSEN  
GLENN G. NYBECK

November 7, 2007

OFFICE OF  
APPELLATE COURTS

NOV -7 2007

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**BY PERSONAL DELIVERY**

Clerk of the Appellate Courts  
305 Minnesota Judicial Center  
25 Rev. Dr. Martin Luther King, Jr., Blvd.  
St. Paul, MN 55155

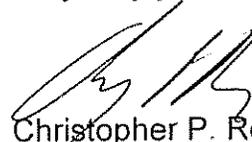
Re: Larry Edwin Craig v. State of Minnesota  
Court of Appeals File No.: A07-1949

Dear Sir or Madam:

Please find enclosed for filing two copies of the Statement by Respondent Clarifying Appellant's Statement of the Case, an original of the document, and proof of service of the document. Appellant's Statement of the Case was served by mail on October 25, 2007. A Statement by Respondent clarifying Appellant's Statement of the Case is being served within ten days after receipt of that statement pursuant to Minn. Rule of Civil Appellate Procedure 133.03.

Please contact me should you have any questions.

Very truly yours,



Christopher P. Renz  
Attorney for Respondent

CPR/maj  
Enclosure

cc: Thomas M. Kelly, Esq. (w/encl.)  
William R. Martin, Esq. (w/encl.)  
Kathleen H. Sinclair, Esq. (w/encl.)  
Teresa Nelson, Esq. (w/encl.)