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## City strums a foul note with civil rights group

WILMINGTON -- John Crowley can sing the blues -- for now.

The 55-year-old street performer is fighting the city of Wilmington over his right to play his steel guitar on the corner of Delaware Avenue and Du Pont Street in Trolley Square.

Late on July 2, Crowley was told by city police he needed a permit to perform and solicit contributions and if he didn't cease and desist immediately, he would be arrested.

A few days later, after the American Civil Liberties Union of Delaware stepped in on his behalf, the city told Crowley he could continue playing while it reviews the case.

Crowley said he didn't mind being threatened with arrest that much because he felt he was on strong legal ground regarding the First Amendment. What most concerned him was that officers threatened to seize his favorite guitar and hold it as evidence.

"I thought that was a little abusive ... three police officers for little old me." He said he was playing on the street to raise money to pay his overdue taxes.

Crowley said he doesn't bother anyone, is always respectful and, with only an acoustic guitar, is certainly not too loud. "I don't hassle people for money," he said, adding he isn't advocating sedition or performing anything "that, shall we say, is unsuitable for a family audience."

ACLU Legal Director Richard Morse said the city law that set up the rules for an "itinerant performer" permit is problematic from a constitutional standpoint on several counts.

To get the permit, Morse said, the law states performers "will be reviewed for appropriate content," and once a permit is issued, performers are strictly limited to downtown Wilmington. And any sign used by a performer requesting contributions must be approved in advance by a city committee.

A line in the ordinance, provided by Morse, also states that the sign "is to be loaned to the performer for the duration of the performance and returned to Downtown Visions upon conclusion of the performance."

"According to the U.S. Supreme Court, with very narrow exceptions the government may not regulate speech on the basis of its content," Morse said. The city has also gone too far, Morse said, by limiting this kind of expression to just one section of the city and adopting a rule about signs that is too vague.

Crowley's unapproved, handwritten sign that he posts above his open guitar case reads, "Degree Worthless. Need \$ 4 property taxes."

Crowley, whose degree is in psychology, attached his property tax bills to the sign to prove that he needs the money to pay his bills, not for drugs or alcohol.

The city issued its temporary permission to Crowley on July 8 in an email advising Crowley and the ACLU that the law would be reviewed sometime this week by a city solicitor.

"Things are overregulated, uptight and locked down," Crowley said. "I don't like the idea of having to get a license at all," he said, adding there are already enough laws and rules in place that should stop people from hassling others or panhandling.

John Rago, communications director for Wilmington Mayor James M. Baker, said the law being challenged by the ACLU was created about five or six years ago to encourage more street performers in the city.

"We knew -- and the mayor has always said -- that it is a sign of a lively city if you have street performers setting up on corners," he said.

The city now realizes, Rago said, that there are restrictions in the law city officials didn't intend, like the limitation of performers to only downtown Wilmington.

Rago also could not say whether any itinerant performer permit has ever been issued -- or if anyone ever went through the "review for appropriate content" in the law.

"We need to look at that and broaden it and we are going to work with the ACLU to broaden the law," he said.

Stephen H. Baird, who runs a website that advocates for the rights of street performers called "Street Arts and Buskers Advocates," said Crowley's situation is not uncommon.

Baird said he too has serious issues with the city's policy of reviewing acts for appropriateness and asked if city politicians would allow a committee to review their campaign material before they hand it out.

"It is classic First Amendment," said Baird, who is a street performer in the Boston area.

For the most part, in the area near the corner where Crowley likes to perform on weekends, people welcomed the idea of street musicians.

"Anything that brings life and positive attention to Forty Acres, I support," said Mary Ann Kelly MacDonald, co-owner of Kelly's Logan House, which is across the street from Crowley's corner.

"I'm all for it," said Bill Bayaw, 26, as he passed Crowley on Monday afternoon.

Jason Holstein, general manager of CR Hooligans Sports Bar and the soon-to-open Hummingbird to Mars club, said he likes Crowley's music. "He might be able to get a gig here," Holstein said, adding he supports the idea of street performers in the area as long as they are not causing problems.

But not everyone was a fan. Nick Patel, the manager of the Inner Spirits liquor store, steps away from Crowley's performance spot, said he does not care for Crowley's music and feels it annoys his customers.

"They complain," he said, adding he would like to see the city keep a tight regulation on such performers. "I don't want to lose my customers because of him."

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