

**Press Release**

**Urbana man challenges Illinois’ outdated**

**and unconstitutional flag desecration law**

**For immediate release**

**January 12, 2017**

**Contact – Edwin C. Yohnka, ACLU of Illinois**

**Cell – 847.687.1129**

[**eyohnka@aclu-il.org**](mailto:eyohnka@aclu-il.org)

**URBANA** – A 22-year-old Urbana resident, unlawfully arrested and jailed for burning an American flag last July 4th, filed a federal lawsuit yesterday seeking to have Illinois’ outdated flag desecration law declared unconstitutional. Bryton Mellott was arrested and detained for five hours in July 2016 after he burned a flag to express his concern about racial discrimination and other injustices. Photos of the event were posted to Mr. Mellott’s personal Facebook page. Mr. Mellott was arrested and held even though the Supreme Court of the United States has recognized flag desecration as protected speech since 1989 (*Texas v. Johnson*).

“I hold the opinion that open dissent is the highest form of American patriotism;” Mr. Mellott said in prepared remarks announcing the lawsuit. “It was a frightening display of irony that on the Fourth of July, I should be taken from my workplace to sit in a county jail for exercising this liberty.”

Mr. Mellott decided in June of 2016 to make a bold statement on public issues. He purchased a flag, waited for a rainy day and found a location that was secluded. Shortly after 8:00 p.m. on July 3rd of 2016, Mr. Mellott went to the backyard of a friend’s home where he burned the flag while a friend took photographs. Mr. Mellott went inside and posted the pictures with a statement to Facebook.

Throughout the evening, Mr. Mellott’s post continued to get comments and be shared by others. Mr. Mellott tried to calm others when the conversation became unruly, reminding people to be civil and considerate when disagreeing with others. By the early morning hours of July 4th, when Mr. Mellott awoke to go to work, he was surprised to see approximately 200 comments.

An Urbana police officer telephoned Mr. Mellott at work and asked if he had burned a flag and posted the picture. Surprised by the police’s interest, Mr. Mellott explained that he had burned the flag and posted the pictures in peaceful protest against a number of social ills.

The Urbana police officer asked Mr. Mellott to take down the post, which Mr. Mellott refused to do. The call ended and Mr. Mellott went back to work.

Approximately 30 minutes later, two Urbana police officers appeared at Mr. Mellott’s workplace, read him his rights and arrested him. He was escorted out of the retail establishment in handcuffs, in full view of his co-workers and customers. Mr. Mellott was taken to the Champaign County Jail and held for about 5 hours in a cell with 10 other persons. Police would later suggest that he was detained in order to ensure his own personal safety.

“There simply was no justification for Bryton to be arrested for his political statement,” said Rebecca Glenberg, ACLU of Illinois senior staff attorney. “If police were concerned about Bryton’s safety, they should have taken action against whomever they thought was compromising his safety, not against the person engaged in constitutionally protected speech.”

“We are asking the court to strike down the Illinois law to ensure that law enforcement in Urbana and across Illinois know that this statute cannot be enforced.” added Glenberg.

Approximately five hours after the detention began, Mr. Mellott was released, and charges against him were dropped.

The lawsuit today was filed in federal district court. Mr. Mellott is represented by Rebecca Glenberg and Bharathi Pillai of the ACLU of Illinois and by Everett Cygal of the Chicago office of Schiff Hardin.

# # #