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**ACLU OF UTAH SETTLES CLAIM OF MAN STOPPED AND CITED FOR “FLIPPING THE BIRD” AT OREM POLICE OFFICER**

The ACLU of Utah has successfully settled a freedom of expression case in Orem City. On June 25, 2010, Seth Dame “flipped the bird” at an Orem City police officer who was driving by. The officer then stopped the car Seth was riding in and questioned Seth and the others in his car for about 20 minutes. The officer then issued a disorderly conduct citation against Seth for “flipping the bird” at him. Orem City later declined to prosecute the citation. After hearing from Seth, the ACLU of Utah contacted Orem City to inform them that the officer had violated Seth’s rights under the First and Fourth Amendments. The ACLU of Utah also conducted an investigation into the Orem Police Department’s practices in issuing disorderly conduct citations.

In a negotiated settlement, Orem City has agreed that Seth should not have been detained or cited for “flipping the bird” at the officer and that, in the future, people will not be stopped or cited by Orem police based solely on an offensive gesture. Orem City also agreed that its police department will continue to implement First Amendment protection education in its annual training, the content of which will be determined by Orem City and may be reviewed by the ACLU of Utah. The ACLU of Utah obtained \$2,500 in damages for Seth and \$2,500 in attorneys’ fees for its work on Seth’s behalf.

“Various courts have concluded that using your middle finger to express discontent or frustration is expressive conduct protected by the First Amendment,” said John Mejia, Legal Director of the ACLU of Utah. “Allowing police to detain and charge people for impolite behavior would grant police wide discretionary power to harass people they do not like,” said Mr. Mejia. “Any police overstep of power to crack down on expression, even rude expression, is therefore worth serious attention. We are very pleased that Orem has responded to our efforts to ensure that everyone’s free speech rights are protected.”

Several similar cases have been brought in other states. For example, in 2009, after a year-long court battle, the ACLU of Pennsylvania and the City of Pittsburgh settled a similar case. The ACLU of Kansas and Western Missouri also brought a similar case in Kansas that was settled in 2010.

For a copy of the signed settlement agreement go to  
[http://www.acluutah.org/Dame\\_v\\_Orem.html](http://www.acluutah.org/Dame_v_Orem.html)