[redacted]

April 22, 2025

Mr. Leonard "Jamie" Snyder
City Attorney, City of Carbondale, Illinois
200 S. Illinois Ave
Carbondale, IL 62901
cityattorney@carbondaleil.gov
Sent via Federal Express and electronic mail

Re: Carbondale's Threatening of Criminal Action Against Mr. Brandon [redacted]

Mr. Snyder:

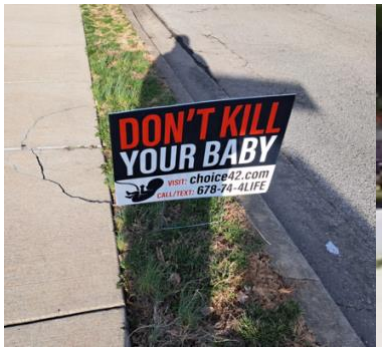
The American Center for Law & Justice[1] represents Mr. M. Brandon [redacted] regarding the events of April 16, 2025, when he was forced to remove his pro-life signs or receive criminal charges during his demonstration at an abortion clinic. As explained in detail below, our client's actions were protected by the First Amendment, and we have reason to believe that your office was directly communicating with City officials and Carbondale Police Officers at the time, directing them to harass and suppress our client's protected speech. Accordingly, the purpose of this letter is to demand that our client's constitutional rights be respected as applied under

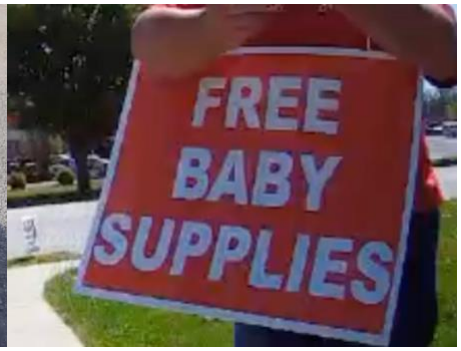
[1] By way of introduction, the ACLJ is an organization dedicated to the defense of constitutional liberties secured by law. ACLJ attorneys have argued before the Supreme Court of the United States in a number of significant cases involving the freedoms of speech and religion. *See Pleasant Grove City v. Summum*, 129 S. Ct. 1523 (2009) (unanimously holding that the Free Speech Clause does not require the government to accept counter-monuments when it has a war memorial or Ten Commandments monument on its property); *McConnell v. FEC*, 540 U.S. 93 (2003) (unanimously holding that minors enjoy the protection of the First Amendment); *Lamb's Chapel v. Center Moriches Sch. Dist.*, 508 U.S. 384 (1993) (unanimously holding that denying a church access to public school premises to show a film series on parenting violated the First Amendment); *Bd. of Educ. v. Mergens*, 496 U.S. 226 (1990) (holding by an 8-1 vote that allowing a student Bible club to meet on a public school's campus did not violate the Establishment Clause); *Bd. of Airport Comm'rs v. Jews for Jesus*, 482 U.S. 569 (1987) (unanimously striking down a public airport's ban on First Amendment activities).

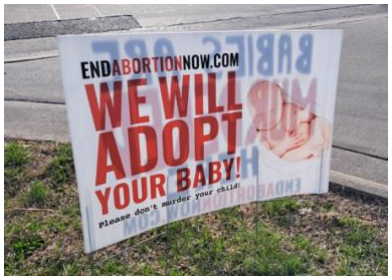
Carbondale Ordinance 15.4.10.8 ("Ordinance"). A summary of the facts and law are set forth below.

Statement of Facts

Our client, Brandon [redacted], is a sidewalk counselor with Gospel for Life, a pro-life ministry he started under the banner of his church. He volunteers much of his free time to advocate for the unborn outside of abortion centers, with the goal of compassionately convincing women seeking abortions to consider alternatives.[2] One of the crucial tools in a sidewalk counselor's toolbox is the use of temporary signs that inform women of publicly available services such as free ultrasounds, baby formula, and diapers. He and his group always remove the temporary signs before they leave, and the signs are always placed in such a way as to not block any right of way or block any traffic view.







On April 16, 2025, Mr. [redacted] joined other pro-life demonstrators outside CHOICES Center for Reproductive Health with other demonstrators. The pro-life demonstrators had small signs that advertised "free baby supplies," ultrasounds, and political statements in opposition to abortion, which were either worn or placed in the ground near their demonstration. Around 10:30 a.m. that day, Mr. [redacted], an employee with City and Housing Services of the City of Carbondale, approached Mr. [redacted] and demanded the removal of these signs, arguing that the advertisement of services was commercial in nature. Mr. [redacted] stated he "just talked to the city attorney and he told me the signs were in violation" and that "free baby supplies is not a demonstration." Mr. [redacted] retrieved signs from his car that were strictly demonstrating

[2] The City of Carbondale explicitly legalized this activity when it repealed Ordinance 2023-03. *See* An Ordinance Repealing Ordinance No. 2023–03, Carbondale, Ill., Ordinance No. 2024–__ (July 13, 2024).

against abortion and informed Mr. [redacted] that he had a constitutional right to display his signs. Mr. [redacted] replied, "No you don't."

Mr. [redacted] continued to insist that he had authority to remove the signs, per your office's instruction, and further threatened our client that he had "five minutes" to move the signs or Mr. [redacted] would call the police. When asked if Mr. [redacted] agreed with Mr. Hamman's right to free speech, Mr. [redacted] said yes, but that "Jamie Snyder" said the signs were in violation.

At this point, officers of the Carbondale Police Department arrived. Your office also contacted these officers, including Sgt. [redacted], and gave the same direction to remove the signs under Ordinance 15.4.10.8. The group complied and moved the signs twenty feet from the right of way, per the Ordinance, but the officers, at the behest of Mr. [redacted], requested that the signs be completely removed. Throughout his interactions with City employees, Mr. [redacted] repeatedly explained that he was complying with the Ordinance. His assertion of his rights and legal compliance was to no avail. Around this time, Mr. [redacted] contacted our office, and in the interest of de-escalation we advised him to comply with the order rather than risk citation or other criminal enforcement.

The next day, Mr. [redacted] inquired with the City about getting a permit through a 501(c)(3) to display temporary signs. However, at the City Office, Mr. [redacted] told him there is no such permit as permits are only available if the sign is displayed on the property owned by the person seeking the permit. Mr. [redacted] stated further that no alternative method of placing signs is possible for "off premise" signs—despite contradictory language in the ordinance itself.

Statement of Law

The relevant portion of Carbondale Ordinance 15.4.10.8 states that temporary signs are allowed to be placed in the ground twenty feet away from a curb line. Commercial signs, defined as those that "advertise goods or services for economic gain," have specific rules that are specifically "not intended to limit the display of banners, flags or other signage by persons participating in demonstrations, political rallies, and similar events." Despite the Ordinance permitting temporary signs, it also mentions a permit to exempt nonprofit organizations from the sign placement requirements. There is no mention in the Ordinance of the method of placement of temporary signs, nor any prohibition of the use of small stakes which is the most common method of securing temporary yard signs.[3]

"Because First Amendment freedoms need breathing space to survive, government may regulate in the area only with narrow specificity." *NAACP v. Burton*, 371 U.S. 415, 433 (1963). The Seventh Circuit has weighed in on the chilling of speech in public spaces repeatedly. There

[3] Indeed, Mr. Hamman found many examples of temporary yard signs, all commercial in nature, much closer than twenty feet to curb lines, affixed with such small stakes around Carbondale the same week as the interaction with Carbondale officials.

is a heavy burden the government must carry before it can regulate First Amendment activity. *Weinberg v. City of Chicago*, 310 F.3d 1029, 1035 (7th Cir. 2002) (internal citation omitted). There is an extreme importance for "public [forums]" to "receive greater constitutional protection from speech restrictions" because there is no better forum to reach a large audience and enable the free flow of diverse ideas. *Id.* The Seventh Circuit has "never accepted mere conjecture as adequate to carry a First Amendment burden." *Id.* at 1039. The bare assertion of a safety concern does not per se justify a chilling of speech in a public forum. *Luce v. Town of Campbell*, 872 F.3d 512, 518 (7th Cir. 2017) ("[t]ime, place, and manner restrictions must serve a 'significant government interest' and be no more extensive than necessary."). In *Luce*, Judge Easterbrook stated that signs within 100 feet of a roadway were "too small to cause drivers to react" and should not be banned, invalidating the 100-foot rule unless the city could "ensure that political demonstrations and other speech that does not jeopardize safety can proceed." *Id.*

In *Laude v. Gilleo*, 512 U.S. 43 (1994), a residential sign restriction was overturned by the U.S. Supreme Court even though residents remained "free to express their desired messages by other means, such as *hand-held* signs" and other paraphernalia. *Id* at 56. The Supreme Court stated that regulations that do not foreclose an ***entire*** medium of expression but shift the time, place, or manner must still "leave open ample alternative channels for communication." *Id.* The Court was unpersuaded that allowing a resident to wave a sign rather than stake it in the ground was an adequate substitute for the "important medium of speech" the city had prohibited. *Id.*

Moreover, a statute can be impermissibly vague for either of two independent reasons: First, if it fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits; second, if it authorizes or encourages arbitrary and discriminatory enforcement. *Hill v. Colorado,* 530 U.S. 703, 732 (2000) (citing *Chicago v. Morales*, 527 U.S. 41, 56–7 (1999)).

Despite the language in Carbondale's temporary sign Ordinance allowing signs that are at least twenty feet from any curb line, the Carbondale Police Officers would not allow Mr. [redacted] to keep the signs placed more than twenty feet from the curb. Mr. [redacted] made every attempt on April 16th to comply but was unable to determine how and when a temporary sign would be acceptable under the vague ordinance. Originally, the officers told Mr. [redacted] the "commercial" content of the signs was unacceptable, which Mr. [redacted] addressed. Then the officers told Mr. [redacted] that it was the proximity to the curb that was unacceptable, which Mr. [redacted] also addressed. Finally, the officers stated that there was no possible way to display the signs on the ground, and Mr. [redacted] was threatened with citation and confiscation of his property unless he complied with their demands.

A government's need to regulate speech in public spaces does not trump all other interests, including, of course, First Amendment liberties. Sign ordinances must be content-neutral and must not "burden substantially more speech than is necessary to further the

government's legitimate interests." *McCullen v. Coakley*, 573 U.S. 464, 486 (2014) (citation omitted). Mr. Hamman's speech on a matter of public concern, communicated through small yard signs, should not have been suppressed on April 16, 2025. Permitting speech by means of "hand-held" signs, but not small staked signs, is not an adequate substitute, even in light of safety considerations under Supreme Court and Seventh Circuit precedent.

Demand

Mr. [redacted]'s First Amendment rights were violated on April 16, 2025, by your office's direction of Carbondale Police Officers to issue him a citation, despite his compliance with the Ordinance. Mr. [redacted] has also been told that no permitting scheme would allow him to use small yard signs during his demonstrations, despite the Ordinance providing a non-profit exemption. Moreover, when Mr. [redacted] attempted to honor Carbondale's ordinances and written exceptions for 501(c) organizations by seeking a permit, Mr. [redacted] grossly mischaracterized the law by claiming no permit existed for 501(c) organizations.

Given that Mr. [redacted] has a First Amendment right to demonstrate against abortion and the right to use temporary signs at said demonstrations, **we are demanding written assurances on or before 1pm CDT on April 29th** that Mr. [redacted] may demonstrate with temporary signs that comply with the requirements set out in Carbondale Ordinance 15.4.10.8. Furthermore, if Mr. [redacted] needs to acquire a permit pursuant to section A.5.b.(2) of that Ordinance to place a sign within twenty feet of a curb line, we demand that your office provide him the application needed to receive that permit. Finally, we demand written assurances that signs discussing the free services of pregnancy resource centers and other nonprofits will be respected as non-commercial and not characterized as "for economic gain."

Respectfully,

Liam R. Harrell*
Associate Counsel
American Center for Law & Justice
[redacted]
[redacted]
**Admitted in Virginia and D.C.*