

N.D.A.G. Letter to Mattson (July 28, 1992)

July 28, 1992

Mr. Douglas L. Mattson
Ward County State's Attorney
Ward County Courthouse
Minot, ND 58701

Dear Mr. Mattson:

I am in receipt of your July 22, 1992, letter in which you inquire, on behalf of the Ward County commissioners, whether individuals handing out political brochures or obtaining signatures for petitions at the North Dakota State Fair may be restricted to conducting those activities from a rented booth. Enclosed with your letter was the Motion by the Ward County commissioners, the "Concessionaire and/or Exhibitor Rules & Regulations," and a statement of the sales and exhibit space selection criteria.

Having reviewed the "Concessionaire and/or Exhibitor Rules & Regulations," it is my opinion that the rules do prohibit the distribution of brochures except from a rented booth pursuant to the following provision:

SOLICITING

No person, parties or organization shall distribute any kind of literature, other than from a paid concession location -- no walking concessions will be allowed.

In my opinion the rules do not prohibit or restrict the gathering of signatures for petitions at the North Dakota State Fair.

Should the State Fair Association desire to restrict the gathering of signatures on petitions, it could constitutionally place reasonable time, manner, and place restrictions upon that activity through an appropriate rule.

It is well settled that "even in a public forum the government may impose reasonable restrictions on the time, place, or manner of protected speech, provided the restrictions 'are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information.'"

International Soc. for Krishna Consciousness, Inc. v. Lee, 60 U.S.L.W. 4749 at 475b at 4759 (U.S. June 26, 1992) (Kennedy, concurring) (citations omitted). The United States Supreme Court, in the case of Heffron v. Int'l Soc. for Krishna Consciousness, 452 U.S.

640 1981), held that a rule requiring all sales, distribution, or solicitation activities at the Minnesota State Fair be confined to a booth rented from the fair did not violate first amendment rights.

It is my opinion that absent a specific rule limiting the gathering of signatures on a petition within the fairgrounds, any individual or organization may legally solicit signatures for petitions anywhere on the fairgrounds.

Sincerely,

Nicholas J. Spaeth

bab/pg