

1 AARÓN J. CARREÓN-AÍNSA, #005397  
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4

5 IN THE MUNICIPAL COURT OF THE CITY OF PHOENIX  
6 COUNTY OF MARICOPA, STATE OF ARIZONA

7 STATE OF ARIZONA,	)	No. 1430050001
	)	
8 Plaintiff,	)	STATE'S MOTION TO DISMISS
	)	WITHOUT PREJUDICE
9 vs.	)	
	)	(Occupy Phoenix, Hance Park)
10 CARY D. CROW,	)	
	)	PDC: May 30, 2012
11 Defendant.	)	Courtroom 607 at 10:00 AM
	)	

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12  
13 The State of Arizona, pursuant to 16A A. R. S. *Rules of Crim. Proc.*, Rule  
14 16.6, respectfully requests the Court dismiss without prejudice the charge in the  
15 interest of justice.

16 Defendant was a member of the Occupy Phoenix Protest. Since the date  
17 of violation, October 15, 2011, defendant has not transgressed. The defendant was  
18 booked into jail because he refused to leave Hance Park after closing and after the  
19 police told him, repeatedly to leave. After conviction, the State would have requested  
20 that the time served in jail be the sentence. The defendant is not flagitious.

21 This country was founded on protest. Indeed, in 1773, a group of angry  
22 colonists led by Samuel Adams, Paul Revere, and others disguised themselves as



1 Native Americans, boarded the ships in Boston Harbor on December 16th, and threw  
2 the tea into the harbor. We call that protest the Boston Tea Party. In 1932, during the  
3 Great Depression, thousands of veterans of World War I along with their wives and  
4 children marched on the Nation's capital. In fact, they moved into shacks below the  
5 capitol in Washington, D. C. protesting congressional inaction in issuing adjusted  
6 compensation certificates that the Congress had granted in 1924. Known as the  
7 Bonus Army, the veterans wanted to advance the issuance of the certificates from  
8 1945, the original date, to 1932. President Herbert Hoover ordered the army to clear  
9 the veterans' campsite. The infantry and cavalry supported by six tanks were  
10 commanded by Army Chief of Staff General Douglas MacArthur. The Bonus Army  
11 marchers with their wives and children were driven out, and their shelters and  
12 belongings burned. That took place after the police had attempted to remove the  
13 marchers. Two veterans were shot and later died during the police action. Protest is  
14 part of the fabric of our nation.

15 In the instant situation, there was no violence. In Phoenix, the protesters  
16 were not violent. The police were not violent.

17 Here, the protesters were in a city park that has closing hours set by the  
18 City of Phoenix Parks Board. After the police informed the protesters that the park  
19 was closed and after giving them ample opportunity to leave the park, a number of  
20 people did not leave. This defendant did not leave. The remaining protesters sat on  
21 the ground instead of leaving the park. At 12:16 AM, on October 16th, the police  
22 arrested the defendant. The park closes at 10:30 PM.



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1 That is the reason we are here. We are not here because the police  
2 objected to the messages of the protesters. We are not here to end their expressions  
3 of opinion, not at all. In fact, the police were present to ensure their safety. The  
4 police lined the route that the protesters took to reach the park. In other places in the  
5 United States and in other parts of the world in recent times, protesters have been  
6 attacked violently by anti-protesters. The Phoenix Police Department was there to  
7 protect the right of the protesters to assemble and speak, to protest in the tradition of  
8 this great country.

9 The protesters, including this defendant, were free to return and  
10 assemble and speak and protest during the hours that the park is open. The hours of  
11 operation of the park are reasonable. They are long-standing. They were established  
12 long before the protesters could have chosen to gather at the park.

13 The State has no intention of limiting anyone's constitutional rights. When  
14 the park is closed, it is closed.

15 The people of Phoenix are satisfied that justice is served by dismissal of  
16 the charge of being in the park after hours.

17 RESPECTFULLY SUBMITTED this 30th day of May, 2012.

18 PHOENIX CITY PROSECUTOR

19 By: \_\_\_\_\_

20 AARON J. CARREON-AINSA, #005397  
21 City Prosecutor  
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