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The First Amendment to the U.S. Constitution
Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances. ABOUT THE FIRST AMENDMENT >

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Lawsuit attacks lowa flag-desecration law

By The Associated Press 12.03.02

GRINNELL, Iowa — The Iowa Civil Liberties Union has filed a lawsuit asking a federal court to declare Iowa's flag-desecration statute unconstitutional.

The lawsuit was filed on behalf of Grinnell College students John Bohman and Juan Diaz, who flew the U.S. flag upside down from their dormitory window.

On Sept. 26, two police officers told them they must remove the flag or be arrested for a simple misdemeanor. The students removed the flag and were not charged.

Flag etiquette rules say a flag should only be flown upside down as sign of distress.

Diaz, 18, said hanging the flag upside down was a protest against the United States' imperialistic actions and the nation's capitalistic economy. Being born into poverty in Chicago, he said, undoubtedly affected his viewpoint.

"People who had a better upbringing don't see things the way I do, but I have experienced the effects of capitalism directly and that's what leads me to question it and that's what leads me in a sense to despise it," he said.

The son of immigrants from Mexico, Diaz describes himself as unpatriotic.

"People tell me it offends them to see the flag upside down, but sometimes I tell them it offends me to see one rightside up," he said.

The threat of prosecution for the flag display has prompted Diaz to oppose the government more vigorously.

"I really do believe that free speech here is conditional as long as you don't offend the wrong people," Diaz said.

The ICLU lawsuit, filed yesterday in Des Moines, claims that displaying the flag upside down is protected under the First Amendment, which guarantees the right of free speech.

Iowa law makes it illegal to "publicly mutilate, deface, defile or defy, trample upon, cast contempt upon, satirize, deride or burlesque" the U.S. flag.

The lawsuit seeks to block enforcement of the state law and asks the federal court to find it unconstitutional.

"Bad laws like these should be stricken from the Iowa code," said Ben Stone, executive director of the ICLU.

The lawsuit cites a 30-year-old Iowa Supreme Court ruling that says displaying a flag upside

down is protected speech and cannot be prosecuted and a 1989 Texas case, *Texas v. Johnson*, in which the U.S. Supreme Court threw out the conviction of a protester who was arrested for burning a flag. The high court ruled that it was a protected symbolic use of the flag.

Poweshiek County Attorney Michael Mahaffey said the Iowa law is seldom enforced and noted that the students were not charged and do not currently face charges.

"I would say that the vast majority of the citizens in Poweshiek County probably would prefer to have the flag flown correctly," he said. "I think we'll wait to see what happens in terms of the federal court."

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