

Federal judge refuses to halt “keep moving” order in Ferguson

By Tom Carter
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On Monday, a federal judge refused to order a halt to the arbitrary “keep moving” rule imposed by the police on residents and journalists on public sidewalks in Ferguson, Missouri.

As part of the police-military crackdown on protests in Ferguson over the police murder of 18-year-old Michael Brown, the police have adopted the tactic of patrolling the sidewalks in groups and shouting “keep moving” at those standing in their way. Anyone who does not move quickly enough is tackled and arrested.

Standing still for as little as five seconds is sufficient to be taken to the ground and handcuffed by a swarm of police. Hundreds of arrests, including of journalists, have been carried out for “failure to disperse.”

The purpose of this tactic is to menace and intimidate the population and obstruct the exercise of basic constitutional rights such as freedom of speech, freedom of the press, and freedom of assembly. It goes hand-in-hand with a de facto state of martial law that has been imposed on the largely working-class suburb of St. Louis.

Over the past week, the American Civil Liberties Union (ACLU) initiated a number of emergency legal proceedings against municipalities involved in the Ferguson repression as well as their leading personnel, challenging the police activities as unconstitutional.

The legal challenge to the “keep moving” tactic was initiated on Monday on behalf of Mustafa Abdullah, who was repeatedly told to “keep moving” by police in Ferguson while he was on a public sidewalk. As part of those emergency proceedings, captioned *Abdullah v. County of St. Louis et al.*, the ACLU applied for a temporary restraining order that would have required the police to stop using the tactic while the lawsuit was pending.

“On five separate occasions within a period of

approximately one hour at different locations, Plaintiff [Abdullah] was ordered by law enforcement officials to refrain from gathering or standing for more than five seconds on public sidewalks and threatened with arrest for non-compliance,” the ACLU attorneys wrote in their brief. “Plaintiff was at no time violating any law. Numerous other individuals in the area, including members of the media, were similarly ordered by law enforcement officials to refrain from gathering or standing for more than five seconds on public sidewalks and threatened with arrest for non-compliance. They, too, were violating no law.”

“When inquiries were made to law enforcement officers regarding which law prohibits gathering or standing for more than five seconds on public sidewalks, the officers indicated that they did not know and that it did not matter,” the brief continued. “The officers further indicated that they were following the orders of their supervisors, whom they refused to name.”

The ACLU went on to allege that the police “have arrested multiple individuals today [Monday] for gathering or standing for more than five seconds on public sidewalks.”

The ACLU argued that the police tactic “restricts First Amendment activity.” The First Amendment, part of the Bill of Rights (adopted in 1791), guarantees freedom of the press, freedom of speech, freedom of assembly, and freedom to petition the government to redress grievances. Arbitrary police rules that lead to harassment, detention, or arrest of demonstrators and journalists exercising their First Amendment rights clearly violate the US Constitution.

Nevertheless, Missouri Attorney General Chris Koster defended the “keep moving” rule and opposed the ACLU petition, arguing that the police tactics were

“designed to protect public safety.” As justification for the tactic, he cited alleged “gunfire and violence” in the areas where the protests were taking place.

The invocation of “public safety” to suspend democratic rights in Ferguson mirrors the invocation of “national security” at the national level. It is a catchall justification, with no legal foundation whatsoever, for the implementation of police state measures and the trampling of basic rights.

The principal perpetrators of “gunfire and violence” in Ferguson have not been the protesters, but the police, who shot and killed an unarmed teenager and have carried out mass repression against protesters seeking to exercise their constitutional rights.

Federal District Judge Catherine D. Perry of the Eastern District of Missouri, a Clinton appointee, denied the application for a temporary restraining order late Monday night. The judge was apparently satisfied with assurances from the authorities that a “free speech zone” had been established where the “keep moving” rule would not be invoked.

Following this ruling, ACLU attorneys told the press that for all intents and purposes the First Amendment has been suspended in Ferguson.

The ACLU has filed a number of lawsuits in relation to the crackdown in Ferguson. One ACLU legal action, filed Thursday of last week, alleges that the Ferguson authorities unlawfully withheld the name of the officer who shot Michael Brown, as well as other details of the shooting, in violation of Missouri statutes that were designed to promote government accountability and transparency.

Another legal action challenged the police practice of ordering journalists and others to turn off their cameras and stop recording. That lawsuit was apparently resolved with a vaguely worded agreement that the police could be filmed as long as the filming did not represent a threat to “public safety” and did not interfere with the officers’ performance of their official duties. Notwithstanding this agreement, the police continue to threaten journalists, obstruct their activities, and even arrest them.

The refusal of the courts to order a halt to flagrant violations of democratic rights in Ferguson underscores the extent to which the entire political establishment and the state are united behind the repression in Ferguson.

The American ruling class is terrified of the emergence of domestic opposition to its twin policies of war abroad and austerity at home. With the participation of all of the branches of government and both establishment political parties, it has erected the infrastructure of a police state, including a massive domestic surveillance apparatus, heavily militarized police departments, and the legal precedents for incommunicado detention, torture and assassination of US citizens.

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