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July 7, 2003

Peter S. Gilchrist, III
District Attorney
700 East Trade Street
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Charlotte, North Carolina 28202-3016

Dear Peter:

I learned with great sadness that your office has apparently decided to continue prosecutions under North Carolina's Crime Against Nature statute and the ancillary "Soliciting to Commit a Crime Against Nature" charge. In light of Lawrence v. Texas and Limon v. Kansas such prosecutions seem entirely unwarranted.

I can appreciate the concern of local law enforcement authorities that the loss of the CAN statute leaves the state with no apparent law to cover sexual activity (not involving commerce or indecent exposure to a member of the opposite gender) in public places. The remedy, however, lies with the legislature, not with attempts to enforce a clearly unconstitutional statute.

I suggest that local officials ask the legislature to amend the prostitution statute to cover acts other than intercourse, amend the indecent exposure law to cover sexually oriented exposure to members of the same gender, and perhaps consider a "public sex acts" law applicable to all sexual expressions. None of these changes would be called into question by recent Supreme Court decisions.

If time is of the essence, I suggest that the county (which has jurisdiction over parks in Mecklenburg County) and the city (within whose borders most of the parks are located) be approached about enacting local ordinances to offer some regulatory protection in the interim.

That is a far more reasonable approach than trying to informally transform the Crime Against Nature law to meet the requirements of the Constitution.

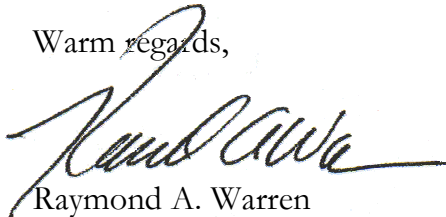
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I have a number of clients who have been charged with SOLCAN in the last few weeks. We will, if necessary, challenge each charge with a motion to dismiss on constitutional grounds. I implore you, however, as the fair minded and knowledgeable attorney that you are, not to put these men through additional unnecessary litigation. The outcome is not in doubt and I know that your office has always been respectful of civil rights.

Attached is a draft of the brief I will file in support of a motion to dismiss. I hope you will take a moment to consider the argument advanced and make a prudential and reasoned decision not to pursue prosecutions under a law that the Supreme Court of the United States has clearly indicated cannot withstand constitutional scrutiny.

Thank you for your consideration in this matter. Because I have a case in District Court this week involving this issue, I hope your office will consider the subject in a timely manner.

Warm regards,

A handwritten signature in black ink, appearing to read "Ray A. Warren", written in a cursive style.

Raymond A. Warren

cc: David Maloney, Assistant District Attorney