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### **ACLU-MN Files Amicus in case of Excessive Force Against Protester**

A Wright County sheriff deputy shot Joshua Hollamon in the head three times with pepperball bullets, causing serious injuries. On Friday, November 22, the ACLU of Minnesota and pro bono partner Dorsey & Whitney LLP filed an amicus brief in *Hollamon v. County of Wright, et al.* before the Eighth Circuit Court of Appeals. The ACLU-MN asks the court of appeals to reverse the district court's ruling dismissing Hollamon's case. Wright County Sergeant Miller's use of pepperball bullets against Hollamon – a peaceful protestor – was excessive force in violation of the Fourth Amendment. He and Wright County should be held accountable.

On July 29, 2021, Hollamon was involved in an Enbridge Line 3 Pipeline protest near the Red Lake River. Protesters gathered outside of a pipeline worksite, which was enclosed by two layers of fencing with several yards of "No Man's Land" separating the outer and inner layers of fencing. Hollamon and other protestors climbed over the exterior fence and entered No Man's Land with the apparent intent to lock themselves to machinery or equipment in peaceful protest.

Law enforcement officers warned protestors not to climb the outer fence as they would be trespassing and would be arrested. When, in an act of civil disobedience, Hollamon and other protestors entered No Man's Land, Miller and other officers responded by firing pepperball guns at the protestors. Hollamon was struck multiple times by pepperball bullets, including three impacts to his head.

Hollamon and about a dozen other protestors were arrested and taken to Pennington County Jail. While in jail, Hollamon experienced balance issues and slurred speech. Since Miller shot him, Hollamon has suffered from headaches, disorientation, memory loss, and other symptoms. The shooting left Mr. Hollamon unable to perform his work, leading to him losing his job in May 2022.

Hollamon filed a case in the United States District Court, District of Minnesota, against Wright County and Miller, claiming that he experienced an excessive use of force under the Fourth Amendment. The district court dismissed Hollamon's case, ruling that the pepperball bullets Miller shot at Hollamon were allegedly meant to "disperse" the protest, so it was not a seizure under the Fourth Amendment.

The ACLU-MN argued that Miller's use of a pepperball rifle—an AR-15-type semiautomatic weapon launching dangerous projectiles, at high velocity, at a rapid pace, without reloading, was a Fourth Amendment violation and excessive force.

"The use of pepperball rifles – potentially lethal force – against peaceful protestors is disproportionate and unnecessary," said ACLU-MN Staff Attorney Catherine Ahlin-

Halverson. “The Eighth Circuit Court of Appeals should recognize this extreme act of force for what it is – excessive – and reverse the district court’s decision.”

This case is not only about the Fourth Amendment's protection from excessive force by law enforcement. It is also about the long tradition of law enforcement officers using disproportionate force against protestors, and the threat that poses to American democracy. Political protesters engaged in non-violent civil disobedience understand that they may be arrested; they are, after all, breaking existing laws (which they often hope to change). But they do not expect, and are entitled to protection from, overreaction and violence from law enforcement under the Fourth Amendment’s guarantee to be free from unreasonable search and seizure.

“People seeking to engage in nonviolent acts of protest should not have to weigh their First Amendment rights against the risk of enduring significant injury by law enforcement,” said ACLU-MN Legal Director Teresa Nelson.