

## **Declaration of Jim Binder**

I, Jim Binder, do hereby declare:

1. I am 48 years old. I was born and raised in Colorado Springs, Colorado. I am a street musician. Almost every day, I play flute for passersby in downtown Colorado Springs. I leave my hat out for tips. I want to continue to play my music on the public sidewalks of downtown, but the solicitation ban that just passed in Colorado Springs makes it illegal for me to do so.

2. I do not currently have a permanent home. For most of my life I lived with my mom, who passed away a few years ago. We took out a loan on our house with Countrywide, and then lost the house. Currently I am staying with a cousin's boyfriend in Colorado Springs who has opened up his house to me.

3. I work part-time as a stagehand and I play my flute on the sidewalk in downtown Colorado Springs to feed my soul and to make ends meet.

4. Usually I play my flute on the public sidewalk at the southeast corner of Tejon and Pikes Peak, which is now in the no-solicitation zone. I do not block the sidewalk or get in anyone's way. There is plenty of room to walk by me and I never verbally ask anyone for money. I just lay out my hat should anyone want to tip me for my musical offering. I chose this location because there is a lot of foot traffic. I take public transit to get downtown to play the flute. Barring bad weather, I play six days a week, since the busses don't run on Sundays.

5. I am an entertainer and provide a service to tourists and other people who walk downtown. Sometimes, people will come with their coffees and sit and listen to me play. If they want to tip, they tip. Before I play, I put a hat down with two dollars and

some change. Sometimes, I don't earn much, maybe only 50 cents after playing for eight hours. Other times, someone will tip more generously. I don't get angry when people choose not to tip. In fact, much of the time I am playing, my eyes are closed, and I don't even realize if people are tipping me.

6. I am a very religious person. For me, playing flute is a spiritual experience. I think music is one way to connect with people and put a smile on their face. I think that there are other realms out there that man doesn't know anything about. Music is one of the ways to get around to these different realms. The Native Americans think flutes carry the song of the wind. If you do it right, you can say hello through the flute and you will actually hear the music saying hello. You can talk through the music and through the air, through the vibrations.

7. If I wasn't allowed to play the flute in downtown Colorado Springs, a lot of people would lose out on a blessing. There are days when I sit and play and hit the right moment and someone will have a moment in which they experience peace of mind.

8. I have played in other parts of town, like in Manitou and in the DMV parking lot off Circle, but none of those areas have as substantial a foot traffic as downtown Colorado Springs. This foot traffic means that I can reach a wide number of people with my music and that I have a much better possibility of being tipped than anywhere else in Colorado Springs. Also, I rely on public transit, and it is easier for me to get to downtown Colorado Springs by public transit than it is for me to get to other areas.

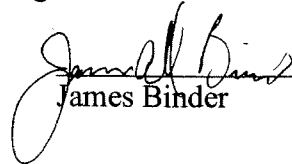
9. I believe that I have a right to play my flute downtown and give people an opportunity to give me tips in return. I never hassle anyone and have never been cited by

the police for playing my flute. When uniformed police come by, I stop playing and ask how they are doing and how their day is going.

10. I would like to continue to play my flute on the corner of Tejon and Pikes Peak, and I believe I have a constitutional right to share my music with others and to ask for money in exchange for my musical offering. Because of the solicitation ban, I must now choose between either violating the law or giving up playing my music on the downtown sidewalk. I don't think that's right.

I declare under penalty of perjury that the foregoing is true and correct.

11-20-12  
Date

  
James Binder