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Dear Devon Reese,

As a member of the press, I appreciate that you and your office have embraced social media as a crucial means of interacting with the public. I was once able to take advantage of this to cover your service to the City of Reno and follow your 2024 campaign, until I was block on your official Twitter account sometime in May 2023. My articles have always complied with Twitter's code of conduct, and I can only assume I was blocked due to our editorial viewpoint or critical coverage of your "non-partisan" role in city government.

I request that you promptly restore my access to view your Twitter account in accord with my free speech rights. I am also requesting a response to this letter within 30 days confirming that you have complied with this request.

The First Amendment to the United States Constitution and Article 1, Section 9 of the Nevada Constitution protect free speech, including on the internet. This protection applies to speech on social media accounts that government officials use for official governmental purposes (for instance, to announce public meetings and resources or to discuss policies and government business) and on which comments or reactions by readers are allowed. *See, e.g., Knight First Amend. Inst. At Columbia Univ. v. Trump*, 928 F.3d 226 (2d Cir. 2019), *vacated as moot sub nom Biden v. Knight First Amend. Inst. At Columbia Univ.*, 209 L.Ed.2d 519 (2021).

As several courts have recognized, once a government official creates an interactive social media platform for discussing such issues, a "public forum" is created. *See Knight First Amend. Inst. at Columbia Univ. v. Trump, 302 F. Supp. 3d 541, 574 (S.D.N.Y. 2018)* (classifying the "interactive space" associated with President Trump's tweets as "a designated public forum"). In a public forum, the power to restrict comments in that forum—whether by blocking a user or by hiding or deleting their comments—is limited by constitutional free speech guarantees. *Members of City Council of L.A. v. Taxpayers for Vincent*, 466 U.S. 789, 804 (1984). As these decisions emphasize, in a public forum, restrictions based on disagreement with the viewpoint expressed are unconstitutional. *Davidson v. Randall*, 912 F.3d 666 (4th Cir. 2019) (affirming a lower court ruling that blocking people on social media is viewpoint discrimination in its most natural form);

Rosenberger v. Rector & Visitors of Univ. of Va., 515 U.S. 819, 829 (1995). A recent decision by the Eighth Circuit has also adopted this framework. *Campbell v. Reisch*, 986 F.3d 822 (8th Cir. 2021) (but finding that under the facts of that case, the social media account at issue was a private political campaign account, not an official government account).

The Supreme Court of the United States has held that viewpoint discrimination is never constitutionally permissible in any type of forum, including designated public forums, as here. *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995) ("Viewpoint discrimination is thus an egregious form of content discrimination. The government must abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction"); *see also Police Department of Chicago v. Mosley*, 408 U.S. 92, 96 (1972) ("[G]overnment may not grant the use of a forum to people whose views it finds acceptable, but deny use to those wishing to express less favored or more controversial views."); *Price v. City of New York*, 15 Civ. 5871 (KPF), 2018 WL 3117507, at *16 (S.D.N.Y. June 25, 2018) ("[V]iewpoint discrimination that results in the intentional, targeted expulsion of individuals from [any type of forum] violates the Free Speech Clause of the First Amendment."). Because your "suppression of [my] critical commentary regarding [my] elected official[] is the natural form of viewpoint discrimination," *Davison*, 26 F. Supp. 3d at 717, it violates the First Amendment.

The @votereese account from which blocked me is being used as a public forum where governmental matters such as legislation, policies, and votes—which affect me as a voter and a member of the press —are routinely discussed. Blocking me from this interactive space solely due to the nature of my work violates my free speech rights.

For these reasons, I respectfully request that you immediately restore my unrestricted ability to view and interact with your Twitter posts, not only to fulfill your duties as an elected representative to hear my views, critical or not, but also to fulfill your duties as a public servant to uphold the United States Constitution. Please respond to this letter within 30 days informing me you've taken this action.

Sincerely,

Megan Barth