

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Stephen Scaer &
Bethany R. Scaer

v.

Civil No. 24-cv-277-LM-TSM

City of Nashua, New
Hampshire

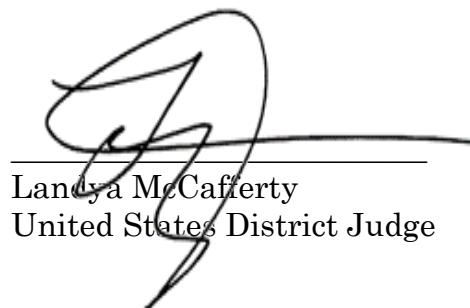
O R D E R

On December 22, 2025, the First Circuit remanded this matter to this court with instructions to enter an interim declaratory judgment consistent with the First Circuit's opinion. See doc. nos. [49](#), [50](#). After soliciting proposals for interim declaratory relief, and in consideration of the First Circuit's opinion, the court hereby enters the following interim declaratory judgment:

1. During the time period between the creation of the Citizen Flag Pole program and October 7, 2024, the City of Nashua was not engaged in government speech when it allowed flags, which people had applied to fly, to be displayed on the Citizen Flag Pole.
2. The Citizen Flag Pole during that time was a forum for private speech.
3. The City of Nashua has conceded that, if the Citizen Flag Pole was a forum for private speech during that time, then the City has engaged in impermissible viewpoint discrimination under the First Amendment.

4. Any resumption of the City's policy of during that time would be unconstitutional.
5. Although the City cannot resume its prior practice or policy, the City of Nashua may close the Citizen Flag Pole to all private expression or return to the pre-2017 historic use of its flagpoles.

SO DECLARED.



Lancya McCafferty
United States District Judge

February 2, 2026

cc: Counsel of Record