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15 Attorneys for Defendant,
16 Robert L. Rosebrock

17 UNITED STATES DISTRICT COURT
18 CENTRAL DISTRICT OF CALIFORNIA

19 UNITED STATES OF AMERICA,
20
21 Plaintiff,
22 v.
23 ROBERT L. ROSEBROCK,
24 Defendant.

CVB Nos. 4920201, 4920202,
6593951, 6593729 / CC11

NOTICE OF MOTION AND MOTION TO
DISMISS MEMORIAL DAY 2016
AMERICAN FLAG CHARGE;
MEMORANDUM OF POINTS AND
AUTHORITIES

Hearing Date: March 7, 2017
Hearing Time: 8:30 a.m.
Courtroom 341 (Roybal)
Hon. Steve Kim

25 TO ALL INTERESTED PARTIES:

26 PLEASE TAKE NOTICE that on Tuesday, March 7, 2017, at 8:30 a.m., or as soon thereafter as
27 counsel may be heard, before Honorable Steve Kim, United States Magistrate Judge, in courtroom 341
28 of the Roybal Federal Building and U.S. Courthouse, located at 255 E. Temple St., Los Angeles, CA,
defendant ROBERT L. ROSEBROCK, by his attorneys, Robert Patrick Sticht and Sterling E. Norris,
will move, and does hereby move, under Rule 12(b)(2) of the Federal Rules of Criminal Procedure, and

FILED
2017 FEB 24 PM 2:09
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES
BY: _____

1 pursuant to, *inter alia*, the First Amendment of the United States Constitution, for an Order dismissing
2 the Memorial Day, May 30, 2016 “displaying placards or posting materials” charge against him.

3 This motion is based upon the accompanying memorandum of points and authorities, the files
4 and records in this case, and any oral argument and evidence that the Court may allow.

5 Dated: February 24, 2017

Respectfully submitted,

6 JUDICIAL WATCH, INC.
7 LAW OFFICES OF ROBERT PATRICK STICHT

8
9 By: 
10 ROBERT PATRICK STICHT

11 Attorneys for Defendant
12 Robert L. Rosebrock

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Mr. Rosebrock has been charged with taking photographs on Memorial Day, May 30, 2016,
4 within the Veterans Administration Facility located at 11301 Wilshire Boulevard in Los Angeles,
5 California (“VA Facility”) in violation of 38 C.F.R. § 1.218(a)(10), and on the same day “displaying
6 placards or posting materials” by affixing two small (4” x 6”) American Flags to the exterior fence of
7 the VA Facility without authorization in violation of 38 C.F.R. § 1.218(a)(9). *See* Exhibit A (United
8 States District Court Violation Notice, Number 4920201 and Number 4920202); see also Government
9 Trial Memorandum (“Gov Trial Memo”), filed November 30, 2016 at 2. Mr. Rosebrock has been
10 further charged with recording video on June 12, 2016, with a Sony camcorder within the VA Facility in
11 violation of 38 C.F.R. § 1.218(a)(10). *See* Exhibit B (United States District Court Violation Notice
12 Number 6593951); Government Trial Memo at 3.

13 **II. BACKGROUND**

14 As stated, Mr. Rosebrock is charged with “posting” two 4 by 6 inch American Flags on the fence
15 of the VA Facility. The fence is part of the “Great Lawn Gate” entrance to the Los Angeles National
16 Veterans Park, a public park at the northeast corner of Wilshire and San Vincente in the Brentwood area
17 of Los Angeles. In front of the “Great Lawn Gate” is a public, semicircular plaza that abuts a public
18 sidewalk.

19 VA Police Officer Ralph Garcia’s statement of probable cause recites that Mr. Rosebrock
20 “affixed” the two small Flags to the fence at or near the “Great Lawn Gate” with thin, easily removable
21 plastic ties. *See* Exhibit A. On Memorial Day 2016, Mr. Rosebrock took part in a rally he, fellow
22 veterans, and other supporters have held nearly every Sunday and Memorial Day since March 9, 2008,
23 to show their support for veterans and protest what they believe is the VA’s failure to make full use of
24 the valuable West Los Angeles property to benefit and care for veterans, particularly homeless veterans.

25 The area beyond the “Great Lawn Gate” is open to the public and is used for a variety of public
26 and commercial purposes. In addition to Los Angeles National Veterans Park, the property includes the
27 Veterans Home of West Los Angeles, Veteran Golf Course, a stadium for the UCLA baseball team,
28 athletic facilities for the Brentwood School, laundry facilities for a nearby Marriott hotel, the Brentwood

1 Theatre, soccer practice and match fields for a private girls' soccer club, a dog park, a farmer's market,
2 and at least three largely vacant buildings. It does not include the VA Greater Los Angeles Health Care
3 Center, which is on a separate parcel on the opposite side of Wilshire Boulevard. Any notion that the
4 area beyond the "Great Lawn Gate" is a private, sheltered place for veterans to heal is incorrect. It is an
5 active, busy place. Earlier this year, the City of Los Angeles announced an agreement with the Veterans
6 Administration that allows construction to cut through the area during a construction project at the
7 nearby Brentwood School, "sparing the rest [of the neighborhood] the impact of construction traffic on
8 Sunset Boulevard and other local streets."

9 When Mr. Rosebrock began holding his rallies at the "Great Lawn Gate" in 2008, the VA police
10 initially told him there was an exception to Section 1.218(a)(9) for the American Flag and POW/MIA
11 flags. *See generally Robert Rosebrock v. Donna Beiter et al.*, Case No. 10-cv-01878-SJO, Central
12 District of California. Accordingly, Mr. Rosebrock and his fellow supporters hung as many as 30 full-
13 size America Flags on the fence at once, without incident. *Id.* When Mr. Rosebrock began hanging the
14 American Flag "union side down" – a recognized signal of urgent distress – on or about June 2009, the
15 VA ordered him to either hang the American Flag "union side up" or remove it. *Id.* It was only when
16 Rosenbrock refused to hang the American Flag "union side down" that the VA police began to cite him
17 for allegedly violating Section 1.218(a)(9). *Id.* The charges were dropped, however, and Mr. Rosebrock
18 discontinued hanging the American Flag "union side down." In 2010, Mr. Rosebrock sued the VA for
19 viewpoint discrimination – advising him he could hang the American Flag, but citing him when he when
20 he hung the American Flag "union side down." *Id.* The lawsuit was declared moot in 2011, when VA
21 represented that it would begin enforcing an interpretation of Section 1.218(a)(9) that did not allow the
22 posting of any flags on the fence. Since that time, Mr. Rosebrock has continued to hang the American
23 Flag "union side up." He has been cited on at least 14 occasions since October 25, 2015, for
24 purportedly violating Section 1.218(a)(9), but not precisely or consistently. Until the Memorial Day
25 2016 citations, the charges have always been dropped.

26 When conservative activist Ted Hayes was accused of hanging a large American Flag on the VA
27 fence on June 12, 2016, Mr. Hayes, a regular participant at Mr. Rosebrock's Sunday rallies, was
28 detained and handcuffed, but not cited. Mr. Rosebrock was detained, cuffed, and cited, however,

1 allegedly for unauthorized photography. *See* Exhibit B.

2 **III. ARGUMENT**

3 The regulation in question states:

4 The distributing of materials such as pamphlets, handbills, and/or flyers, and the
5 displaying of placards or posting of materials on bulletin boards or elsewhere on property
6 is prohibited, except as authorized by the head of the facility or designee or when such
distributions or displays are conducted as part of authorized Government activities.

7 38 C.F.R. § 1.218(a)(9).

8 As an initial matter, Section 1.218(a)(9) does not reference the posting of flags expressly, and
9 reading the regulation to criminalize posting of the American Flag raises the legal issue of constitutional
10 vagueness. “Vagueness may invalidate a criminal law for either of two independent reasons. First, it
11 may fail to provide the kind of notice that will enable ordinary people to understand what conduct it
12 prohibits; second, it may authorize and even encourage arbitrary and discriminatory enforcement.” *City*
13 *of Chicago v. Morales*, 527 U.S. 41, 56 (1999); *see also United States v. Osinger*, 753 F.3d 939, 945
14 (9th Cir. 2014). A third grounds for unconstitutional vagueness also exists – “to avoid any chilling
15 effect on the exercise of First Amendment freedoms.” *Osinger*, 753 F.3d at 945. “For statutes involving
16 criminal sanctions, the requirement for clarity is enhanced.” *Id.* at 946.

17 The “vagueness” doctrine is rooted in the Due Process clauses of the Fifth and Fourteenth
18 Amendments to the U.S. Constitution. *Papachristou v. Jacksonville*, 405 U.S. 156, 162 (1972). It is not
19 limited to laws regulating speech, but applies with special exactitude where a law may impinge on First
20 Amendment Freedoms. *See Grayned v. City of Rockford*, 408 U.S. 104, 109 (1972).

21 Section 1.218(a)(9) is unconstitutionally vague because its use of the term “materials” is
22 ambiguous. The regulation’s first clause prohibits the “distributing of materials,” which are expressly
23 identified as including “pamphlets, handbills, and/or flyers.” All three are written or printed materials.
24 None is the American Flag. The regulation then refers to “placards,” which, again, typically describes
25 written or printed materials such as signs, notices, or posters. The American Flag plainly is not a
26 placard. The regulation’s final clause repeats the word “materials” – “the posting of materials on
27 bulletin boards or elsewhere on property is prohibited.” Typically, repetition of a word in a statute
28 signals that the word is intended to have the same meaning as the earlier usage. *See, e.g., Mohasco*

1 *Corp. v. Silver*, 447 U.S. 807, 826 (1980) (applying “presumption of consistent usage”). In the case of
2 Section 1.218(a)(9), the second iteration of the word “materials” should be read to refer to the same type
3 of written or printed materials expressly used to describe the first iteration: written or printed materials
4 such as “pamphlets, handbills, and/or flyers” or even “placards.” It should not be read to refer to the
5 American Flag. The corollary makes this even clearer: the regulation plainly does not prohibit the
6 distribution of American Flags. The VA itself appears to have been confused about the proper reading
7 of the word “materials” in Section 1.218(a)(9), as it initially told Mr. Rosebrock that he could post both
8 the American Flag and the POW/MIA Flag on the fence during his rallies. It was only after Mr.
9 Rosebrock displayed the American Flag “union side down” and filed suit for viewpoint discrimination
10 that the VA began to read the regulation’s use of the word “materials” to prohibit posting of the
11 American Flag. The VA’s entirely opposite readings of the regulation only confirm its vagueness.

12 In addition, it goes without saying that the American Flag holds a very special place of honor in
13 the United States. An entire chapter in United States Code – the Flag Code – is devoted to the American
14 Flag. *See* 4 U.S.C. §§ 1-10. An official day of commemoration – Flag Day – has been set aside by an
15 Act of Congress to honor the anniversary of its adoption on June 14, 1777. *See* 36 U.S.C. § 110. The
16 General Services Administration issues very specific guidelines – the “Flag Policy” – on flying the
17 American Flag. The American Flag is not some non-descript “material” comparable to a generic
18 pamphlet, handbill, flyer, or placard. If a law, rule, or regulation is intended to criminalize posting of
19 the American Flag, then it should say so expressly. Absent such a clear expression of intent, no law,
20 rule, or regulation should be read to criminalize the American Flag’s display. To the extent use of the
21 word “materials” in Section 1.218(a)(9) refers to or was intended to refer to the American Flag, the
22 regulation is unconstitutionally vague because it fails to provide sufficient notice that posting the
23 American Flag on VA property is prohibited, authorizes and even encourages arbitrary and
24 discriminatory enforcement, and chills First Amendment freedoms.

25 Mr. Rosebrock does *not* concede that the fence at the “Great Lawn Gate” is not a public or a
26 limited public forum. *See United States v. Grace*, 461 U.S. 171, 177 (1983). “Public places” historically
27 associated with the free exercise of expressive activities, such as streets, sidewalks, and parks, are
28 considered, without more, to be “public forums.” *Id.* The plaza where Mr. Rosebrock holds his rallies

1 abuts a public sidewalk at a busy intersection. The plaza itself is virtually indistinguishable from the
2 public sidewalk, and the “Great Lawn Gate,” which abuts the plaza, serves as the entrance to a public
3 park. Accordingly, the sidewalk, plaza, and park are all public fora. *Id.* By advising Mr. Rosebrock that
4 he could post the American Flag and POW/MIA flags on the fence, then allowing him to do so on
5 numerous occasions and only objecting when he posted the American Flag “union side down,” the VA
6 effectively opened up the fence to expressive activity, making it at least a limited purpose forum. *See*
7 *Perry Education Assn. v. Perry Local Educators’ Assn.*, 460 U.S. 37, 45 (1983). In either case, the
8 government’s ability to permissibly restrict expressive conduct is very limited. *Grace*, 461 U.S. at 177
9 (for public fora and limited public fora, “the government may enforce reasonable time, place, and
10 manner regulations as long as the restrictions ‘are content-neutral, are narrowly tailored to serve a
11 significant government interest, and leave open ample alternative channels of communication’”)
12 (*quoting Perry Education Assn.* 460 U.S. at 45)).

13 Even assuming that the fence at the “Great Lawn Gate” is a nonpublic forum, any restrictions on
14 expressive conduct must be reasonable “in light of the purpose of the forum and all the surrounding
15 circumstances.” *Cornelius v. NAACP Legal Def. & Educ. Fund*, 473 U.S. 788, 809 (1985); *Preminger v.*
16 *Peake*, 552 F.3d 757, 765-66 (9th Cir. 2008). “The VA must proffer more than a rational basis for the
17 restriction; the restriction must reasonably fulfill ‘a legitimate need.’” *Preminger*, 552 F.3d at 765-66
18 (*quoting Sammartano v. First Judicial Dist. Court*, 303 F.3d 959, 967 (9th Cir. 2001)). The restriction
19 need not constitute the least restrictive alternative available. *Id.* at 766.

20 The VA has yet to proffer any rational basis or legitimate need for its restriction on the
21 expressive conduct at issue here – affixing two, easily removable 4 by 6 inch American Flags on the
22 fence at the “Great Lawn Gate” on Memorial Day 2016. There is no suggestion that, by affixing the two
23 small American Flags to the fence with thin, plastic ties, Mr. Rosebrock allegedly obstructed the
24 sidewalk, the plaza, the “Great Lawn Gate,” or the Los Angeles Veterans National Park in any way. *See*
25 *Grace*, 461 U.S. at 182. There also is no suggestion that, by posting these two small American Flags on
26 the fence, Mr. Rosenbrock allegedly obstructed access to or interfered with the orderly administration of
27 the Veterans Home or any other VA building or facility, or the golf course, baseball stadium, school
28 athletic facilities, soccer fields, dog park, farmers’ market, commercial laundry facilities or theatre. *Id.*

1 There also is no suggestion or allegation that his two small American Flags injured or threatened injury
2 to any person or even bothered or disturbed anyone. *Id.* No VA property was damaged or harmed in any
3 way or even threatened with damage or harm. *Id.* Under the circumstances, Mr. Rosebrock's alleged
4 posting of the two small American Flags on the VA fence on Memorial Day 2016 was protected against
5 the instant charges by the First Amendment.

6 **III. CONCLUSION**

7 For the foregoing reasons, the Court should dismiss the American Flag charge on Memorial Day
8 May 30, 2016.

1 **CERTIFICATE OF SERVICE**

2 I, Robert Patrick Sticht, declare:

3 I am a citizen of the United States and resident or employed in the County of Los Angeles,
4 California. My business address is Law Offices of Robert Patrick Sticht, P.O. Box 49457, Los Angeles,
5 CA 90049. I am over the age of eighteen years. I am not a party to the above-entitled action.

6 I manually filed (or caused to be manually filed) the foregoing NOTICE OF MOTION AND
7 MOTION TO DISMISS MEMORIAL DAY 2016 AMERICAN FLAG CHARGE; MEMORANDUM
8 OF POINTS AND AUTHORITIES with the Clerk of the Court for the United States District Court for
9 the Central District of California. I caused a copy of the same document to be placed in a sealed
10 envelope and served by U.S. Mail, postage prepaid, in the ordinary course of business, and/or hand-
11 delivered, upon the following persons:

12 Robert L. Rosebrock, 575 S. Barrington Ave., #410, Los Angeles, CA 90049;

13 Sharon McCaslin and Adam Schleifer, Assistant United States Attorneys, 1300 U.S. Courthouse,
14 312 North Spring Street, Los Angeles, CA 90012.

15 Executed on February 24, 2017 at Los Angeles, California.

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

17 
18 ROBERT PATRICK STICHT

United States District Court
Violation Notice

CVB Location Code
CC 11

Violation Number 4920201	Officer Name (Print) RIGARCIA	Officer No. 4958
YOU ARE CHARGED WITH THE FOLLOWING VIOLATION		
Date and Time of Offense (mm/dd/yyyy) 05/30/2016 1210	Offense Charged 38 CFR 1.218(C)(10)	USC or State Code 4920201
Place of Offense WLA-GREAT LANN GATE 11301 WISCONSINE BLVD LOS ANGELES, CA 90073		

Offense Descriptor: Factual Basis for Charge
HAZMAT
TAKING PHOTOGRAPHS WITHOUT PERMISSTION

DEFENDANT INFORMATION Phone: ()

Last Name
Rosebrock

First Name
Robert

M.I.
L

Street Address
[REDACTED]

City
Los Angeles

State
CA

Zip Code
90049

Date of Birth (mm/dd/yyyy)
[REDACTED]

Drivers License No.
CA

CDL D.L. State
CA

Vehicle Information

Adult Juvenile Sex Male Female

Height
6'4"

Eye Color
BRN

Hair Color
BRN

Weight
235

VIN: **6-2**

CMV

Tag No. **---** State **---** Year **---** Make/Model **---** PASS Color **---**

IF BOX A IS CHECKED, YOU MUST APPEAR IN COURT. SEE INSTRUCTIONS (on back of yellow copy).

IF BOX B IS CHECKED, YOU MUST PAY AMOUNT INDICATED BELOW OR APPEAR IN COURT. SEE INSTRUCTIONS (on back of yellow copy).

Forfeiture Amount
\$ 50

Processing Fee
+\$25

Total Collateral Due
\$ 75

PAY THIS AMOUNT →

YOUR COURT DATE

(If no court appearance date is shown, you will be notified of your appearance date by mail.)

Court Address
[REDACTED]

Date (mm/dd/yyyy)
[REDACTED]

Time (h:m:am)
[REDACTED]

My signature signifies that I have received a copy of this violation notice. It is not an admission of guilt. I promise to appear for the hearing at the time and place indicated or pay the total collateral due.

Defendant Signature
REFUSED/1232

STATEMENT OF PROBABLE CAUSE
(For issuance of an arrest warrant or summons)

I state that on May 30, 2016 while exercising my duties as a law enforcement officer in the Central District of California
SEE ATTACHED

The foregoing statement is based upon:
 my personal observation my personal investigation
 information supplied to me from my fellow officer's observation
 other (explain above)

I declare under penalty of perjury that the information which I have set forth above and on the face of this violation notice is true and correct to the best of my knowledge.

Executed on: 05/30/2016 Date (mm/dd/yyyy)
[Signature] Officer's Signature

Probable cause has been stated for the issuance of a warrant.

Executed on: _____ Date (mm/dd/yyyy) U.S. Magistrate Judge

HAZMAT = Hazardous material involved in incident; PASS = 9 or more passenger vehicle; CDL = Commercial drivers license; CMV = Commercial vehicle involved in incident

10 of 2

N/G
Tual
12/01/2016

CVB SCAN JUL 18, 2016 13:14

United States District Court Violation Notice # 4920201

Statement of Probable Cause

(For issuance of an arrest warrant or summons)

I state that on May 30, 2016 while exercising my duties as a law enforcement officer in the Central District of California

On May 30, 2016, at approximately 1210 hours, I, Ralph Garcia, was on duty and in full uniform assigned to bicycle patrol checking the Great Lawn gate and speaking with visitors and Veterans in the area. While checking the great lawn gate I observed Robert Rosebrock on the great lawn taking photographs. I pulled up next to Rosebrock who I believe didn't recognize me at the time. Rosebrock was taking photographs of flags which he later admitted to posting on the fence as well as the grounds of the property. It was at this time I verbally identified myself to Rosebrock as VA Police. Rosebrock was advised the taking of photographs on VA property without authorization for media use is not authorized. Based on Rosebrocks past articles, I know the photos would be used for media purposes (see attached article). Understanding this, I asked Rosebrock what he was going to do with the photographs. Rosebrock stated, "Put them on a website and plaster you guys all over the net with news stories on you. It's called freedom of the press!" I advised Rosebrock if he continued to take photographs he would be cited as he did not have authorization. Rosebrock began stating he intends to take photos for his media blog once again and stated its freedom of the press a second time. He further explained that he will continue to take photos and videos to destroy VA Officers and the VA on his media website. I explained to Rosebrock he would be cited if the photographs continue. Rosebrock put his camera away and was told to sit on the wall of the fence while I continued to investigate. Rosebrock stated, "The grass is a mess, there's trash everywhere and you have done nothing to keep it clean! How dare you let it look like this! You need to clean it up right now!" I explained to Rosebrock I was a Federal Law Enforcement Officer for the US Department of Veterans Affairs and as such my duties do not include doing EMS duties or grounds. I advised him I since it was brought to our attention I would call grounds. He became upset stating, "Why cant you do something now like stop harassing me and go pick up trash!" I explained that cleaning trash on the floor is not one of my job duties and again explained I would contact grounds after speaking with him. I explained another suggestion which was if he wanted to volunteer his time to clean it up the VA and the Veterans would be very appreciative of his efforts, but Rosebrock declined! I observed (2) US Flags affixed to the fence using plastic zip ties. I asked Rosebrock the following:

(Garcia) (Q) Are these flags yours?

(Rosebrock) (A) Yes!

(Garcia) (Q) Did you place them on the fence?

(Rosebrock) (A) Yes I did about 20 minutes ago. I am not dealing with you, you have it out for me, you always travel just like thanksgiving your McDonalds protégé! I'm leaving you can't stop me!

I advised Rosebrock he was not free to leave and was currently detained for unauthorized photography as well as displaying items on the fence. Rosebrock stated again he was leaving. I stepped in front of Rosebrock and stated, "Sir, if you attempt to walk away I will take you physically into custody, place you in handcuffs, and charge you with resisting and delaying under California Penal Code 148. You will be booked into Los Angeles County Jail and you will face the local district attorney to answer for the charge. The choice is now yours to make. I have explained the circumstances your facing and the consequence for your actions. Cooperate and stay as told or be arrested." Rosebrock stated, "Fine, I will stay!" Rosebrock sat on the wall while I asked additional questions;

(Garcia) (Q) Why did you put the flags on the fence?

(Rosebrock) (A) Because I can and I am doing this to force you guys to cite me.

(Garcia) (Q) Why are you doing that?

(Rosebrock) (A) Because you guys are jerks, you harassed me yesterday and you're harassing me today! You lost in court. They threw out all your citations because they see this as harassment. So I will keep posting flags on the fence regardless of whatever you guys say because I don't care. So arrest me for it.

(Garcia) (Q) The president ordered flags to be at half-staff, I noticed neither of those are at half-staff first and second you do understand they are not affixed to a proper pole to be flown in that manner? So now you are not flying flags correctly, not at half-staff, and you don't have permission to affix them on the fence in that manner.

(Rosebrock) (A) Well I am not taking them down you can cite me.

I asked Rosebrock to hand me his license. After receiving the license, Sgt. Joel Henderson arrived on scene. Rosebrock took out his camera and stated, "I am taking a picture of this!" I again instructed Rosebrock if he took a photograph he would be cited for the offense. Rosebrock stated, "Go ahead! They will drop it because they don't have time to deal with me!" Rosebrock began taking photographs. I advised Rosebrock he would now be receiving a citation for unauthorized photography and if he continued, his camera would be confiscated for use as evidence in court. Rosebrock began stating he was only planning on taking pictures of trash on VA property and was outraged that there was trash on the ground. I explained to Rosebrock he was going to receive a citation for 38 CFR 1.218(A) (9) Displaying Placards or posting Materials on Property Without Authorization and an additional citation for 38 CFR 1.218(A) (10) taking photographs without permission. Sergeant Henderson removed the flags and I confiscated them. I then issued Rosebrock a United States District Court Violation Notice (#4920202) for a violation of 38 CFR 1.218 (A) (9) displaying placards, materials, on bulletin boards or elsewhere, except as authorized and (#4920201) for violating 38 CFR 1.218(A) (10) taking photographs without permission. Rosebrock refused to sign the citation's but was handed both copies stating his refusal and the time he refused each. Rosebrock was then ordered to depart since he had no official business other than impeding officers by violating the law. I departed the area. I booked the two flags and 3 plastic zip ties into evidence. An evidence form 3524 was completed along with form 3524(a) Tag #1. Lt. Arreygoe and I booked it into temporary evidence locker #17, with no further incident. Case closed.

The foregoing statement is based upon:

- my personal observation
my personal investigation
information supplied to me from my fellow officer's observation
other (explain above)

I declare under penalty of perjury that the information which I have set forth above and on the face of this violation notice is true and correct to the best of my knowledge.

Executed on: 05/30/2016 Date (mm/dd/yyyy) Officer's Signature

Probable Cause has been stated for the issuance of a warrant.

Executed on: Date (mm/dd/yyyy) U.S. Magistrate Judge

United States District Court Violation Notice # 4920201
Statement of Probable Cause
(For issuance of an arrest warrant or summons)

I state that on May 30, 2016 while exercising my duties as a law enforcement officer in the Central District of California

On May 30, 2016, at approximately 1210 hours, I, Ralph Garcia, was on duty and in full uniform assigned to bicycle patrol checking the Great Lawn gate and speaking with visitors and Veterans in the area. While checking the great lawn gate I observed Robert Rosebrock on the great lawn taking photographs. I pulled up next to Rosebrock who I believe didn't recognize me at the time. Rosebrock was taking photographs of flags which he later admitted to posting on fence as well as the grounds of the property. It was at this time I verbally identified myself to Rosebrock as VA Police. Rosebrock was advised the taking of photographs on VA property without authorization for media use is not authorized. Based on Rosebrock's past articles, I know the photos would be used for media purposes (see attached article). Understanding this, I asked Rosebrock what he was going to do with the photographs. Rosebrock stated, "Put them on a website and plaster you guys all over the net with news stories on you. It's called freedom of the press!" I advised Rosebrock if he continued to take photographs he would be cited as he did not have authorization. Rosebrock began stating he intends to take photos for his media blog once again and stated its [sic] freedom of the press a second time. He further explained that he will continue to take photos and videos to destroy VA Officers and the VA on his media website. I explained to Rosebrock he would be cited if the photographs continue. Rosebrock put his camera away and was told to sit on the wall of the fence while I continue to investigate. Rosebrock stated, "The grass is a mess, there's trash everywhere and you have done nothing to keep it clean! How dare you let it look like this! You need to clean it up right now!" I explained to Rosebrock I was a Federal Law Enforcement Officer for the US Department of Veterans Affairs and as such my duties do not include doing EMS duties or grounds. I advised him since it was brought to our attention I would call grounds. He became upset stating, "Why cant [sic] you do something now like stop harassing me and go pick up trash!" I explained that cleaning trash on the floor is not one of my duties and again explained I would contact grounds after speaking with him. I explained another suggestion which was if he wanted to volunteer his time to clean it up the VA and the Veterans would be very appreciative of his efforts, but Rosebrock declined! I observed (2) US flags affixed to the fence using plastic zip ties. I asked Rosebrock the following:

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(Rosebrock) (A) Yes!

(Garcia) (Q) Did you place them on the fence?

(Rosebrock) (A) Yes I did about 20 minutes ago. I am not dealing with you, you have it out for me, you always have! Just like thanksgiving your McDonalds protege. I'm leaving you can't stop me!

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(Rosebrock) (A) Because I can and I am doing this to force you guys to cite me.

(Garcia) (Q) Why are you doing that?

(Rosebrock) (A) Because you guys are jerks, you harassed me yesterday and you're harassing me today!

You lost in court. They threw out all your citations because they see this as harassment. So I will keep posting flags on the fence regardless of whatever you guys say because I don't care. So arrest me for it. (Garcia) (Q) The president ordered flags to be at half staff, I noticed neither of those are at half-staff first and second you do understand they are not affixed to a proper pole to be flown in that manner? So now you are not flying flags correctly, not at half-staff, and you don't have permission to affix them on the fence in that manner.

(Rosebrock) (A) Well I am not taking them down you can cite me.

I asked Rosebrock to hand me his license. After receiving the license, Sgt. Joel Henderson arrived on scene. Rosebrock took out his camera and stated, "I am taking a picture of this!" I again instructed Rosebrock if he took a photograph he would be cited for the offense. Rosebrock stated, "Go ahead! They will drop it because they don't have time to deal with me!" Rosebrock began taking photographs. I advised Rosebrock he would now be receiving a citation for unauthorized photography and if he continued, his camera would be confiscated and used as evidence in court. Rosebrock began stating he was only planning on taking pictures of trash on VA property and was outraged that there was trash on the ground. I explained to Rosebrock he was going to receive a citation for 38 CFR 1.218(A)(9) Displaying Placards or posting Materials on Property Without Authorization and an additional citation for 38 CFR 1.218(A)(10) taking photographs without permission. Sergeant Henderson removed the flags and I confiscated them. I then issued Rosebrock a United States District Court Violation Notice (#4920202) for a violation of 38 CFR 1.218(A)(9) displaying placards, materials, on bulletin boards or elsewhere, except as authorized and (#4920201) for violating 38 CFR 1.218(A)(10) taking photographs without permission. Rosebrock refused to sign the citation's [sic] but was handed both copies stating his refusal and the time he refused each. Rosebrock was then ordered to depart since he had no official business other than impeding officers by violating the law. I departed the area. I booked the two flags and 3 plastic zip ties into evidence. An evidence form 3524 was completed along with form 3524(a) Tag #1. Lt. Arreygue and I booked it into temporary evidence locker #17 with no further incident. Case closed.

The foregoing statement is based upon:

my personal observation

I declare under penalty of perjury that the information which I have set forth above and on the face of this violation notice is true and correct to the best of my knowledge.

Executed on: 05/30/2016 /s/ Ralph Garcia
Date (mm/dd/yyyy) Officer's Signature

Probable cause has been stated for the issuance of a warrant.

Executed on: _____
Date (mm/dd/yyyy) U.S. Magistrate Judge

United States District Court
Violation Notice

CVB Location Code

CC11

2 OF 2

STATEMENT OF PROBABLE CAUSE
(For issuance of an arrest warrant or summons)

Violation Number 4920202	Officer Name (Print) R. Garcia	Officer No. 9958
YOU ARE CHARGED WITH THE FOLLOWING VIOLATION		
Date and Time of Offense (mm/dd/yyyy) 05/30/2016 12:16	Offense Charged 38 CER. I. 218(A) 9	Offense Code 4920202
Place of Offense 11301 WILSHIRE BLVD LOS ANGELES CA 90023	State CA	State Code 9

Offense Description: **Displaying PLACARDS OR POSTING MATERIALS.**

DEFENDANT INFORMATION Phone: ()

Last Name: **ROSEBRECKS** First Name: **Robert** M.I.: **L**

City: **Los Angeles** State: **CA** Zip Code: **90049** Date of Birth (mm/dd/yyyy): [REDACTED]

Driver's License No.: [REDACTED] D.L. State: **CA** Social Security No.: [REDACTED]

Adult Juvenile Set Male Female Eyes: **BRN** Height: **6-2** Weight: **185**

VEHICLE VIN: [REDACTED] Year: [REDACTED] Make/Model: [REDACTED] Color: [REDACTED] CVR

IF BOX A IS CHECKED, YOU MUST APPEAR IN COURT. SEE INSTRUCTIONS (on back of yellow copy).

IF BOX B IS CHECKED, YOU MUST PAY AMOUNT INDICATED BELOW OR APPEAR IN COURT. SEE INSTRUCTIONS (on back of yellow copy).

\$ **50** Forfeiture Amount
+ \$25 Processing Fee
PAY THIS AMOUNT → \$ 75 Total Collateral Due

YOUR COURT DATE
(If no court appearance date is shown, you will be notified of your appearance date by mail.)

Court Address: [REDACTED] Date (mm/dd/yyyy): [REDACTED] Time (hh:mm): [REDACTED]

My signature certifies that I have received a copy of this violation notice. It is not an admission of guilt. I promise to appear for the hearing at the time and place instructed or pay the total collateral due.

X Defendant Signature **ROSEBRECKS/1232**

I state that on MAY 30, 2016 while exercising my duties as a law enforcement officer in the Sentral District of CALIFORNIA
SEE ATTACHED

N/G
Trial
12/01/2016

The foregoing statement is based upon:
 my personal observation my personal investigation
 information supplied to me from my fellow officer's observation
 other (explain above)

I declare under penalty of perjury that the information which I have set forth above and on the face of this violation notice is true and correct to the best of my knowledge.

Executed on: 05/30/2016 Date (mm/dd/yyyy)
[Signature] Officer's Signature

Probable cause has been stated for the issuance of a warrant.

Executed on: _____ Date (mm/dd/yyyy) U.S. Magistrate Judge

HAZMAT = Hazardous material involved in incident; PASS = 6 or more passenger vehicle; CDL = Commercial drivers license; CMV = Commercial vehicle involved in incident.

CVB SCAN JUL 18, 2016 13:14

United States District Court Violation Notice # 4920202

Statement of Probable Cause

(For issuance of an arrest warrant or summons)

I state that on May 30, 2016 while exercising my duties as a law enforcement officer in the Central District of California

On May 30, 2016, at approximately 1210 hours, I, Ralph Garcia, was on duty and in full uniform assigned to bicycle patrol checking the Great Lawn gate and speaking with visitors and Veterans in the area. While checking the great lawn gate I observed Robert Rosebrock on the great lawn taking photographs. I pulled up next to Rosebrock who I believe didn't recognize me at the time. Rosebrock was taking photographs of flags which he later admitted to posting on the fence as well as the grounds of the property. It was at this time I verbally identified myself to Rosebrock as VA Police. Rosebrock was advised the taking of photographs on VA property without authorization for media use is not authorized. Based on Rosebrock's past articles, I know the photos would be used for media purposes (see attached article). Understanding this, I asked Rosebrock what he was going to do with the photographs. Rosebrock stated, "Put them on a website and plaster you guys all over the net with news stories on you. It's called freedom of the press!" I advised Rosebrock if he continued to take photographs he would be cited as he did not have authorization. Rosebrock began stating he intends to take photos for his media blog once again and stated its freedom of the press a second time. He further explained that he will continue to take photos and videos to destroy VA Officers and the VA on his media website. I explained to Rosebrock he would be cited if the photographs continue. Rosebrock put his camera away and was told to sit on the wall of the fence while I continued to investigate. Rosebrock stated, "The grass is a mess, there's trash everywhere and you have done nothing to keep it clean! How dare you let it look like this! You need to clean it up right now!" I explained to Rosebrock I was a Federal Law Enforcement Officer for the US Department of Veterans Affairs and as such my duties do not include doing EMS duties or grounds. I advised him I guess it was brought to our attention I would call grounds. He became upset stating, "Why cant you do something now like stop harassing me and go pick up trash!" I explained that cleaning trash on the floor is not one of my job duties and again explained I would contact grounds after speaking with him. I explained another suggestion which was if he wanted to volunteer his time to clean it up the VA and the Veterans would be very appreciative of his efforts, but Rosebrock declined! I observed (2) US Flags affixed to the fence using plastic zip ties. I asked Rosebrock the following:

(Garcia) (Q) Are these flags yours?

(Rosebrock) (A) Yes!

(Garcia) (Q) Did you place them on the fence?

(Rosebrock) (A) Yes I did about 20 minutes ago. I am not dealing with you, you have it out for me, you always have! Just like thanksgiving your McDonalds protégé! I'm leaving you can't stop me!

I advised Rosebrock he was not free to leave and was currently detained for unauthorized photography as well as displaying items on the fence. Rosebrock stated again he was leaving. I stepped in front of Rosebrock and stated, "Sir, if you attempt to walk away I will take you physically into custody, place you in handcuffs, and charge you with resisting and delaying under California Penal Code 148. You will be booked into Los Angeles County Jail and you will face the local district attorney to answer for the charge. The choice is now yours to make. I have explained the circumstances your facing and the consequence for your actions. Cooperate and stay as told or be arrested." Rosebrock stated, "Fine, I will stay!" Rosebrock sat on the wall while I asked additional questions;

(Garcia) (Q) Why did you put the flags on the fence?

(Rosebrock) (A) Because I can and I am doing this to force you guys to cite me.

(Garcia) (Q) Why are you doing that?

(Rosebrock) (A) Because you guys are jerks, you harassed me yesterday and you're harassing me today! You lost in court. They threw out all your citations because they see this as harassment. So I will keep posting flags on the fence regardless of whatever you guys say because I don't care. So arrest me for it.

(Garcia) (Q) The president ordered flags to be at half-staff, I noticed neither of those are at half-staff first and second you do understand they are not affixed to a proper pole to be flown in that manner? So now you are not flying flags correctly, not at half-staff, and you don't have permission to affix them on the fence in that manner.

(Rosebrock) (A) Well I am not taking them down you can cite me.

I asked Rosebrock to hand me his license. After receiving the license, Sgt. Joel Henderson arrived on scene. Rosebrock took out his camera and stated, "I am taking a picture of this!" I again instructed Rosebrock if he took a photograph he would be cited for the offense. Rosebrock stated, "Go ahead! They will drop it because they don't have time to deal with me!" Rosebrock began taking photographs. I advised Rosebrock he would now be receiving a citation for unauthorized photography and if he continued, his camera would be confiscated for use as evidence in court. Rosebrock began stating he was only planning on taking pictures of trash on VA property and was outraged that there was trash on the ground. I explained to Rosebrock he was going to receive a citation for 38 CFR 1.218(A) (9) Displaying Placards or posting Materials on Property Without Authorization and an additional citation for 38 CFR 1.218(A) (10) taking photographs without permission. Sergeant Henderson removed the flags and I confiscated them. I then issued Rosebrock a United States District Court Violation Notice (#4920202) for a violation of 38 CFR 1.218 (A) (9) displaying placards, materials, on bulletin boards or elsewhere, except as authorized and (#4920201) for violating 38 CFR 1.218(A) (10) taking photographs without permission. Rosebrock refused to sign the citation's but was handed both copies stating his refusal and the time he refused each. Rosebrock was then ordered to depart since he had no official business other than impeding officers by violating the law. I departed the area. I booked the two flags and 3 plastic zip ties into evidence. An evidence form 3524 was completed along with form 3524(a) Tag #1. Lt. Arreygue and I booked it into temporary evidence locker #37, with no further incident. Case closed.

The foregoing statement is based upon:

- my personal observation
my personal investigation
information supplied to me from my fellow officer's observation
other (explain above)

I declare under penalty of perjury that the information which I have set forth above and on the face of this violation notice is true and correct to the best of my knowledge.

Executed on: 05/30/2016 Date (mm/dd/yyyy) Officer's Signature

Probable Cause has been stated for the issuance of a warrant.

Executed on: Date (mm/dd/yyyy) U.S. Magistrate Judge

United States District Court Violation Notice # 4920202
Statement of Probable Cause
(For issuance of an arrest warrant or summons)

I state that on May 30, 2016 while exercising my duties as a law enforcement officer in the Central District of California

On May 30, 2016, at approximately 1210 hours, I, Ralph Garcia, was on duty and in full uniform assigned to bicycle patrol checking the Great Lawn gate and speaking with visitors and Veterans in the area. While checking the great lawn gate I observed Robert Rosebrock on the great lawn taking photographs. I pulled up next to Rosebrock who I believe didn't recognize me at the time. Rosebrock was taking photographs of flags which he later admitted to posting on fence as well as the grounds of the property. It was at this time I verbally identified myself to Rosebrock as VA Police. Rosebrock was advised the taking of photographs on VA property without authorization for media use is not authorized. Based on Rosebrock's past articles, I know the photos would be used for media purposes (see attached article). Understanding this, I asked Rosebrock what he was going to do with the photographs. Rosebrock stated, "Put them on a website and plaster you guys all over the net with news stories on you. It's called freedom of the press!" I advised Rosebrock if he continued to take photographs he would be cited as he did not have authorization. Rosebrock began stating he intends to take photos for his media blog once again and stated its [sic] freedom of the press a second time. He further explained that he will continue to take photos and videos to destroy VA Officers and the VA on his media website. I explained to Rosebrock he would be cited if the photographs continue. Rosebrock put his camera away and was told to sit on the wall of the fence while I continue to investigate. Rosebrock stated, "The grass is a mess, there's trash everywhere and you have done nothing to keep it clean! How dare you let it look like this! You need to clean it up right now!" I explained to Rosebrock I was a Federal Law Enforcement Officer for the US Department of Veterans Affairs and as such my duties do not include doing EMS duties or grounds. I advised him since it was brought to our attention I would call grounds. He became upset stating, "Why cant [sic] you do something now like stop harassing me and go pick up trash!" I explained that cleaning trash on the floor is not one of my duties and again explained I would contact grounds after speaking with him. I explained another suggestion which was if he wanted to volunteer his time to clean it up the VA and the Veterans would be very appreciative of his efforts, but Rosebrock declined! I observed (2) US flags affixed to the fence using plastic zip ties. I asked Rosebrock the following:

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The foregoing statement is based upon:

my personal observation

I declare under penalty of perjury that the information which I have set forth above and on the face of this violation notice is true and correct to the best of my knowledge.

Executed on: 05/30/2016 /s/ Ralph Garcia
Date (mm/dd/yyyy) Officer's Signature

Probable cause has been stated for the issuance of a warrant.

Executed on: _____
Date (mm/dd/yyyy) U.S. Magistrate Judge

United States District Court
 Violation Notice

CVB Location Code: CC-11
 Officer No. 6593951
 Officer Name (Print): STIGM, Robert
 YOU ARE CHARGED WITH THE FOLLOWING VIOLATION: 6593951
 Date and Type of Offense (month/day/yr): 06/12/2010
 Offense Charged: SR. OFFR 1.218 A-10
 Place of Offense: WLA, VETERANS PARKWAY

Offense Description: HAZMAT
TAKEN BY VIDEO RECORDING
PHOTOGRAPHS WITH OUT PERMISSION
 DEFENDANT INFORMATION: ROSEBLACK
 First Name: ROBERT
 Last Name: ROBERT
 Street Address: [REDACTED]
 City: LOS ANGELES
 State: CA
 Zip Code: 90049
 Date of Birth (mm/dd/yyyy): [REDACTED]
 Drivers License No.: [REDACTED]
 Sex: Male
 Height: 5'11"
 Weight: 185
 Eyes: BRN
 Hair: BRN
 Color: CMV D

STATEMENT OF PROBABLE CAUSE
 (For issuance of an arrest warrant or summons)
 I state that on June 12, 2010 while exercising my duties as a
 law enforcement officer in the Central District of California
While in Full Police uniform at VA
PROPERTY I OBSERVED ROBERT
ROSEBLACK VIDEO RECORDING VA
PROPERTY AND VA POLICE OFFICERS
WHILE AT VA PROPERTY WITHOUT
PERMISSION OR AUTHORITY

CVB No. N/G
 Date of Issuance: 12/01/2016
 Trial Date: 12/01/2016

The foregoing statement is based upon:
 my personal observation
 information supplied to me from my fellow officer's observation
 other (explain above)
 I declare under penalty of perjury that the information which I have set forth above and on
 the face of this violation notice is true and correct to the best of my knowledge.
 Executed on: 06/30/2016 Date (mm/dd/yyyy)
 Officer's Signature: [Signature]

Probable cause has been stated for the issuance of a warrant.
 Executed on: 06/30/2016 Date (mm/dd/yyyy)
 U.S. Magistrate Judge

HAZMAT = Hazardous material involved in incident; PASS = 9 or more passenger vehicle;
 CBL = Commercial drivers license; CMV = Commercial vehicle involved in incident
 I promise to appear for the hearing at the time and place instructed or pay the total collateral due.
 Signature: LEFUS TO SIGN
 Date: 12/01/2016
 Time: [REDACTED]