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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY: _____

1 ROBERT PATRICK STICHT (SBN 138586)
2 Law Offices of Robert Patrick Sticht
3 P.O. Box 49457
4 Los Angeles, CA 90049
5 Telephone: (310) 889-1950
6 Facsimile: (310) 889-1864
7 Email: LORPS@verizon.net

8 STERLING E. NORRIS (SBN 040993)
9 JUDICIAL WATCH, INC.
10 2540 Huntington Drive, Suite 201
11 San Marino, CA 91108
12 Telephone: (626) 287-4540
13 Facsimile: (626) 237-2003
14 Email: jw-West@judicialwatch.org

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.

25 CVB Nos. 4920201, 4920202,
26 6593951, 6593729 / CC11

27 NOTICE OF MOTION AND MOTION TO
28 DISMISS ALL CHARGES;
MEMORANDUM OF POINTS AND
AUTHORITIES

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

TO ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE that on Tuesday, March 7, 2017, at 8:30 a.m., or as soon thereafter as counsel may be heard, before Honorable Steve Kim, United States Magistrate Judge, in courtroom 341 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) and (3) of the Federal Rules of Criminal Procedure, and pursuant to, *inter alia*, the First, Fourth and Fifth Amendments of the United States

1 Constitution, for an Order dismissing all charges against him on the grounds of selective prosecution and
2 vindictive prosecution.

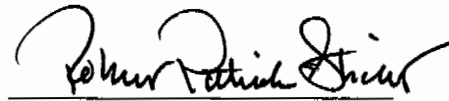
3 This motion is based upon the accompanying memorandum of points and authorities, the files
4 and records in this case, and any oral argument and evidence that the Court may allow.

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 For additional background, the Court is referred to Mr. Rosebrock's separately filed motions (1)
14 to suppress statements, (2) to dismiss photography / recording charges, and (3) to dismiss Memorial Day
15 2016 American Flag charge.

16 **II. ARGUMENT**

17 **A. Selective Prosecution**

18 A claim of selective prosecution is based on the premise, rooted in the concept of equal
19 protection, that a decision to prosecute "may not be based on an unjustifiable standard such as race,
20 religion, or other arbitrary classification." *United States v. Armstrong*, 517 U.S. 456, 464 (1996).
21 Selective prosecution "is not a defense on the merits to the criminal charge itself, but an independent
22 assertion that the prosecutor has brought the charge for reasons forbidden by the Constitution." *Id.* at
23 463. To demonstrate selective prosecution, "the claimant must demonstrate that the federal
24 prosecutorial policy "had a discriminatory effect and that it was motivated by a discriminatory purpose."
25 *Id.* at 465 (citation omitted). To meet these requirements, the defendant must show that he was singled
26 out for prosecution while other violators similiary situated were not prosecuted, and the decision to
27 prosecute was based on an arbitrary classification such as race, religion, or the exercise of constitutional
28 rights. *Id.* at 465-466; *see also United States v. Arenas-Ortiz*, 339 F.3d 1066 (9th Cir. 2003).

1 Here, the first requirement is met. When conservative activist Ted Hayes was accused of
2 hanging a large American Flag on the fence of the VA Facility on June 12, 2016, Mr. Hayes, a regular
3 participant at Mr. Rosebrock's Sunday rallies, was detained and handcuffed, but not cited. Mr.
4 Rosebrock was detained, cuffed, and cited, however, purportedly for unauthorized photography. The
5 second requirement is also satisfied. Mr. Rosebrock is being punished, first for exercising his First
6 Amendment right to lead the Sunday rallies and show support for veterans and protest what he believes
7 is the VA's failure to make full use of the VA Facility and land to benefit and care for veterans,
8 particularly homeless veterans, and second in retaliation for suing the VA in 2010.

9 B. Vindictive Prosecution

10 The due process clause protects criminal defendants from prosecutions that are based on
11 vindictive motives – e.g., to punish the defendant for exercising a legal right. *See Blackledge v. Perry*,
12 417 U.S. 21 (1974). A presumption of vindictiveness may arise. For example, if more serious charges
13 are filed following a successful appeal by a defendant, the presumption will apply. *Id.* To establish a
14 presumption of vindictiveness, a defendant need not show the prosecutor acted in bad faith or
15 maliciously sought the indictment. *See United States v. Jenkins*, 504 F.3d 694, 699-700 (9th Cir. 2007).
16 Rather, the defendant must demonstrate only a “reasonable likelihood” that the government would not
17 have brought the charges had he not elected to exercise a protected right. *Id.* at 700. “The mere
18 appearance of prosecutorial vindictiveness suffices to place the burden on the government because the
19 doctrine of vindictive prosecution ‘seeks[s] to reduce or eliminate apprehension on the part of an
20 accused’ that she may be punished for exercising her rights.” *Id.* “[T]he ‘prophylactic’ doctrine is
21 designed, in part, ‘to prevent chilling the exercise of [legal] rights by other defendants who must make
22 their choices under similar circumstances in the future.’” *Id.*

23 Mr. Rosebrock had been demonstrating at the VA Facility for over 8 years without incident.
24 Since October 25, 2015, he has received at least 14 citations. Nothing was said to Mr. Rosebrock about
25 photography or video recording until after 10 “flag” citations were dismissed. Mr. Rosebrock was
26 instrumental in exposing nine land deals made by the VA on the land in question resulting in a federal
27 judgment declaring them unlawful. He challenged former VA Secretary McDonald's failure to end
28 veteran homelessness by January 31, 2015 as promised in a settlement of the lawsuit over the land deals.

1 There is more. The VA police officer who cited Mr. Rosebrock on Memorial Day, 2016 was well aware
2 of Mr. Rosebrock's protected, expressive activity, as he referenced this activity in his "Statement of
3 Probable Cause." These circumstances raise at the very least a "realistic or reasonable likelihood" that
4 the government's decision to prosecute the instant charges was motivated by retaliation. *See Jenkins*, 504
5 F.3d at 700.

6 **III. CONCLUSION**

7 For the foregoing reasons, the Court should dismiss all charges against Mr. Rosebrock.
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CERTIFICATE OF SERVICE

I, Robert Patrick Sticht, declare:

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

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

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

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

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

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


ROBERT PATRICK STICHT

United States District Court
Violation Notice

CVB Location Code

CC 11

Violation Number: 4920201
 Officer Name (Print): RUIBARGA
 Officer No.: 4958
 YOU ARE CHARGED WITH THE FOLLOWING VIOLATION
 Date and Time of Offense (mm/dd/yyyy): 05/30/2016 3:30
 Offense Charged: CFR USC State Code
 Place of Offense: WLA - GREAT LAWN GATE
 LOS ANGELES, CA 90073
 Offense Description: Federal Bench for Charge
 HAZMAT

4920201

TAKING PHOTOGRAPHS WITHOUT PERMISSION

DEFENDANT INFORMATION Phone: ()
 Last Name: ROSEBROCK
 First Name: Robert
 M: L
 Street Address: [REDACTED]
 City: Los Angeles
 State: CA
 Zip Code: 90049
 Date of Birth (mm/dd/yyyy): [REDACTED]
 Address License No: [REDACTED]
 C.D.L. D.L. State: CA
 Social Security No: [REDACTED]

Adult Juvenile Males Females
 Height: 6-2
 Weight: 235
 Eyes: BRN
 Hair: BRN
 CMV

Tag No. _____ State _____ Year _____ Mile/Model _____ PASS Color _____
 A IF BOX A IS CHECKED, YOU MUST APPEAR IN COURT. SEE INSTRUCTIONS (on back of yellow copy).
 B 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
 \$ 75 Total Collateral Due
 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:h:mm): [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.
 X 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

N/G
 Truad
 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 [Signature]
 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

HAZMAT = Hazardous material involved in incident; PASS = 9 or more passenger vehicle;
 C.D.L. = Commercial drivers license; CMV = Commercial vehicle involved in incident

CVB SCAN JUL 18, 2016 13:14

10 of 2

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 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 his 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 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 these 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(s) 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 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)

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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.

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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

20F2

United States District Court
Violation Notice

CVB Location Code
cc11

Violation Number: 4920202
 Officer Name (Print): R. Garcia
 Officer No.: 9858
 YOU ARE CHARGED WITH THE FOLLOWING VIOLATION
 Date and Time of Offense (mm/dd/yyyy): 05/30/2016 38 CER. 1.218(A)9
 Place of Offense: 11301 WILSHIRE BLVD AT LAWN GATE
 LOS ANGELES, CA 90073
 Offense Description: Factual Basis for Charge
 HAZMAT

Displaying placards or posting materials.

DEFENDANT INFORMATION
 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.: [Redacted]
 State: CA
 Social Security No.: [Redacted]
 Height: 6-2
 Weight: 235
 Eyes: BRN
 Hair: BRN
 Sex: Male Female
 VIN: [Redacted]
 CMV

Tag No. [Redacted]
 State: [Redacted]
 Year: [Redacted]
 Make/Model: [Redacted]
 PASS Color: [Redacted]
 A IF BOX A IS CHECKED, YOU MUST APPEAR IN COURT. SEE INSTRUCTIONS (on back of yellow copy).
 B 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 data is shown, you will be notified of your appearance date by mail.)
 Court Address: [Redacted]
 Date (mm/dd/yyyy): [Redacted]
 Time (h:mm): [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 instructed 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

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 = 8 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 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 have! Just like thanksgiving your McDonalds protège! 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. Arreygus 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 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:

(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 protege. 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 [sic] 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 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

CV8 Location Code

CC-11

Violation Number 6593951	Officer Name (Print) STAN, PEPERD	Officer No. 05933951
YOU ARE CHARGED WITH THE FOLLOWING VIOLATION		
Date and Time of Offense (mm/dd/yyyy) 06/12/2016	Offense Charged (CFR + USC + State Code) SR. OFFR 1.218A.10	Place of Offense WLA, VETERANS PARKWAY
Offense Description: Factual Basis for Charge TAKEN VIDEO RECORDING/PHOTOGRAPHS WITH OUT PERMISSION		

HAZMAT 0

DEFENDANT INFORMATION Phone: ()

Last Name
ROSEBACK

First Name
ROBERT

M.I.

City
LOS ANGELES

State
CA

Zip Code
90049

Date of Birth (mm/dd/yyyy)

Drivers License No.

Sex Male Female

Height
5'11"

Weight
185

Color
BRN

VIN: **1G1ZC5E062335**

Year
2012

Make/Model
GMV D

Color

YOUR COURT DATE

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

Court Address

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

B 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
+ \$30 Processing Fee

PAY THIS AMOUNT → \$ **80** Total Collateral Due

Signature

Date (mm/dd/yyyy)

Time (hh:mm)

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 instructed or pay the total collateral due.

DEFUS ED TO SIGN

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

I state that on **June 12, 2016** while exercising my duties as a law enforcement officer in the **Central** District of **California** **WHILE IN FULL POLICE UNIFORM ON VA PROPERTY I OBSERVED ROBERT ROSEBACK VIDEO RECORDING VA PROPERTY AND VA POLICE OFFICERS WHILE ON VA PROPERTY WITHOUT PERMISSION OR AUTHORITY**

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: **06/12/2016** 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