

01 Comes now Ronald Ward, herein referred to as Plaintiff, in the
02 above entitled action. Plaintiff is a "patient" at Coalinga State
03 Hospital (CSH) being held pursuant §§6600, et seq. WIC, more
04 commonly known as the Sexually Violent Predators (SVP) Act.
05

06 -QUESTION-
07

08 Does Plaintiff, who is a patient in a state mental hospital,
09 have the constitutionally protected First Amendment Rights of
10 "freedom of speech" and "peaceful assembly"?

11
12 -DEFENDANTS-
13

14 Defendant Tom Voss is the Executive Director of CSH and is
15 personally responsible for promulgating and implementing its
16 policies and procedures. Defendant Voss knows, or reasonably
17 should have known, that recently implemented policies denied
18 Plaintiff of his rights to freedom of speech and peaceful
19 assembly.

20 Defendant Barbara Devine is the Unit Supervisor of Unit 1.
21 Defendant Devine personally took actions to deprive Plaintiff of
22 his rights of freedom of speech and peaceful assembly.

23 Defendant Brian Bowely is the Unit Supervisor of Unit 2.
24 Defendant Bowely personally took actions to deprive Plaintiff of
25 his rights of freedom of speech and peaceful assembly.

26 Defendant Kim Wyatt is the Unit Supervisor of Unit 3.
27 Defendant Wyatt personally took actions to deprive Plaintiff of
28 his rights of freedom of speech and peaceful assembly.

01 Defendant September Winchell is the Unit Supervisor of Unit 4.
02 Defendant Winchell personally took actions to deprive Plaintiff
03 of his rights of freedom of speech and peaceful assembly.

04 Defendant Ryan Argulio is the Unit Supervisor of Unit 6.
05 Defendant Argulio personally took actions to deprive Plaintiff of
06 his rights of freedom of speech and peaceful assembly.

07 Defendant Rocky Spurgeon is the Program Director of Program 1.
08 Defendant Spurgeon personally took actions to deprive Plaintiff
09 of his rights of freedom of speech and peaceful assembly.

10 Defendant Jim Robinson is the Nursing Coordinator for Program
11 1. Defendant Robinson personally took actions to deprive
12 Plaintiff of his rights of freedom of speech and peaceful
13 assembly.

14 Defendant Patrick Daley is the Chief of Central Program
15 Services (CPS). Defendant Daley personally took actions to
16 deprive Plaintiff of his rights of freedom of speech and peaceful
17 assembly.

18 Defendant James Walter is the Shift Lead on Unit 1. Defendant
19 Walter personally took actions to deprive Plaintiff of his rights
20 of freedom of speech and peaceful assembly.

21 Defendant Gary Renzaglia is the Clinical Administrator.
22 Defendant Renzaglia personally took actions to deprive Plaintiff
23 of his rights of freedom of speech and peaceful assembly.

24 Defendant J. Does are employed at CSH in various capacities.
25 Defendants Does personally took actions to deprive Plaintiff of
26 his rights of freedom of speech and peaceful assembly.

27 All defendants are being sued in both their professional and
28 personal capacities.

01 Plaintiff seeks protection of his First Amendment
02 Constitutional rights of "Freedom of Speech" and "Peaceful
03 Assembly". Plaintiff also seeks actual and punitive damages from
04 Defendants for willfully depriving Plaintiff of these clearly
05 established rights.

06
07 -FACTS-
08

09 Plaintiff was one of a group of patients in a state mental
10 hospital who chose to picket the hospital's administration in
11 order to express dissatisfaction over certain conditions of
12 confinement. In less than a 24 hour period, Defendants changed
13 four policies at CSH whose sole purpose was to deny Plaintiff and
14 other patients the First Amendment rights of freedom of speech
15 and peaceful assembly. Defendants then confiscated all of
16 Plaintiff's signs, stating that they were "contraband", and that
17 protest signs of any kind would not be tolerated.

18 On Tuesday, February 21, 2006, Defendants changed the patient
19 telephone system with no advanced notice. Previously, there were
20 four telephones per unit which patients could make either
21 outgoing collect calls, or receive incoming direct calls. The
22 phone system was changed so that each unit still had four
23 telephones, but two lines were now exclusively for outgoing
24 collect calls, and the other two lines were exclusively for
25 incoming direct calls. The majority of patients' family and
26 friends cannot afford collect calls placed from here as the
27 collect calls are prohibitively expensive. Far more patients
28 receive incoming direct calls than make outgoing collect calls.

01 Each housing unit houses up to 50 men. Plaintiff and other
02 patients were dissatisfied with the telephones because they were
03 insufficient for the amount of people living on each unit. Also,
04 the new phone system would not allow patients to place outgoing
05 collect calls to many phone numbers they could previously call.

06 At the time the phone system was changed, all the patient
07 telephone numbers changed. There were no referrals on the old
08 numbers. When a person called an old number it just rang, and
09 rang, and rang. Many patients had no way to inform their families
10 and friends that the numbers had been changed. And if their
11 families and friends called the old numbers they were not
12 referred to the new numbers. Many patients, including Plaintiff,
13 were upset with this specific change in policy at CSH.

14 On Tuesday, February 21, 2006, Defendants changed all the
15 typewriters that patients had access to from Adler-Royal
16 Satellite 80 Memory Typewriters to Brother EM-100 typewriters
17 without memory or any advanced formatting features. Like the
18 telephones, there was no advanced notice of this change of
19 policy.

20 Based on these changes of policies, and other policies already
21 in place that patients had unsuccessfully sought change, on
22 Friday, February 24, 2006, the patients held a meeting on the
23 Main Courtyard (MCY). Approximately 160 patients, out of a total
24 population of approximately 185 patients, attended this meeting.
25 The purpose of this meeting was to gauge the sentiments of the
26 patient population.

27 As a result of an earlier promise by administration on
28 resolving issues regarding policies at the patient canteen and

01 "grill", it was decided to hold another meeting on Friday, March
02 3, 2006. This meeting was held on the MCY and was attended by
03 approximately 140 patients. At this meeting it was decided that
04 the patients would engage in a limited peaceful protest in hopes
05 of persuading the Administration of dealing with our problems in
06 a more timelier manner.

07 The methods for protest were (1) refusal to attend therapy
08 groups, (2) refusal to attend school, (3) refusal to attend jobs,
09 and (4) maintaining a picket line in a common area of CSH known
10 locally as the "Mall". All methods of our protest were peaceful,
11 and absolutely no coercion was involved. While we asked that
12 patients join the protest at the meeting, at no time was any
13 patient coerced into participating. Any participation was
14 strictly voluntary.

15 The refusal to participate method of the strike enjoyed wide
16 based support and participation among the patients. A much
17 smaller group of patients participated in walking the picket
18 line.

19 The picket line was maintained in the "Mall". The Mall is a
20 very large common area. The Mall is an obloid shaped hall that is
21 at least 300 feet in length and approximately 80 feet at the
22 widest point. The Picket line was maintained in this widest part
23 of the Mall.

24 Plaintiff and other patients began maintaining the picket line
25 on Monday, March 6, 2006. A small group, numbering between 5 to
26 10 patients, stood quietly in the Mall area with various signs.
27 These were hand printed signs made with colored construction
28 paper and hand-written with a felt tipped marker.

01 CSH has a police force known locally as the Department of
02 Protective Services (DPS). None of the DPS officers told any of
03 the patient pickets that we could not be in the Mall Area
04 picketing. However, Defendants Spurgeon, Robinson and Daley, came
05 to the Mall at approximately 2:45 PM and told Plaintiff and other
06 picketing patients that it was not acceptable for us to "loiter"
07 on The Mall and that they must leave the Mall. Plaintiff and
08 other patients told Mr. Spurgeon that 'we intended only to stay
09 approximately 15 more minutes until the shift change, then we
10 would leave.'

11 Initially, the picket line was on the south side of the Mall,
12 approximately 15 feet from the canteen. On Tuesday, March 7,
13 2006, Defendants Devine, Bowely, Wyatt and Argulio approached
14 Plaintiff and the other picketing patients stating that 'we would
15 have to leave the Mall because we were "impeding traffic".'
16 Plaintiff and other picketing patients told the Unit Supervisors
17 that claim was ridiculous. Plaintiff and other picketing patients
18 were standing in line with a series of light poles on the Mall,
19 and that nobody had asked us to move because we had not blocked
20 anybody's ingress or egress from the canteen or restaurant.
21 Defendant Bowely was very antagonistic. Defendant Bowely insisted
22 that Plaintiff and other picketing patients move to the north
23 side of the Mall. Plaintiff and other picketing patients complied
24 with this order because we knew that Defendants could not argue
25 that we were impeding traffic if we stood against the MCY
26 windows, which face the north side of the Mall. There were a few
27 other minor incidents of staff harassment to attempt to move us
28 off the Mall. They are not important for the purposes of this

01 narrative.

02 On Thursday, March 9, 2006, at approximately 2:00 PM,
03 Defendant Winchell came to the Mall and reported that all the
04 pickets must immediately leave the Mall because the
05 Administration just held a meeting and changed the policy
06 regarding the Mall. As of that moment forward, the Mall was no
07 longer a valid destination for patients to sign out to, and that
08 we must leave.

09 Approximately two hours later, Plaintiff was informed by
10 Defendant Devine that patients could no longer have use of felt
11 tip markers or high lighters. Defendant Devine was well aware
12 that Plaintiff and other patients had used the felt tip pens to
13 make protest signs.

14 On Friday, March 10, 2006, Plaintiff and a much larger group
15 of patients decided to maintain the picket line, but to do so
16 within the "new rules" that had been implemented by the
17 Administration for the sole purpose of stifling our rights to
18 free speech and peaceful assembly. A large group of patients
19 signed out to the "Store" (canteen). The policy of the canteen is
20 that only two patients were allowed in the store at one time.
21 Thus, there was a long line of patients outside the canteen
22 carrying signs, awaiting their turn for service in the canteen.
23 At Approximately 10:20, Unit Defendant Bowely came to the
24 canteen. Plaintiff observed Defendant Bowely place a telephone
25 call. When Defendant Bowely finished the call he came out and
26 announced that, "the Administration had just modified the canteen
27 policy to allow up to four patients in the canteen at one time."
28 This impromptu modification of policy was done to further dilute

01 the right to peaceful assembly of the patients.

02 There was a meeting the patients had scheduled on the MCY for
03 1:00 PM on Friday, March 10, 2006. Defendants announced the MCY
04 would be closed from 12:00 to 2:00 PM. Then at 2:00 PM it was
05 announced the MCY would remain closed "until further notice."

06 Later, that same day, Plaintiff was informed by members of the
07 Patients' Advisory Committee that, henceforth, only a maximum of
08 30 patients would be allowed on the MCY, at a time when it
09 reopens. There are presently slightly more than 200 patients in
10 CSH, and the design capacity is 1500. To only allow 30 patients
11 on the MCY, while housing up to 50 patients on each unit, is
12 patently absurd. For example, the day room on Plaintiff's housing
13 unit is less than $\frac{1}{4}$ the size of the Main Courtyard, yet the State
14 Fire Marshal has rated its capacity at 71 persons seated, and 152
15 persons standing.

16 On Monday, March 13, 2006, Plaintiff was informed by Defendant
17 Walter that he must surrender his protest signs because they had
18 been declared "contraband". Plaintiff asked Defendant Walter who
19 authorized the confiscation of the signs. Defendant Walter
20 answered, "Mr. Renzaglia." Plaintiff was further advised that the
21 local policies and procedures were being changed to disallow
22 patients the right to possess any paper beyond "legal size" and
23 that any protest signs, regardless of size, would not be allowed.

24 All of these policy changes have occurred in less than 5 days.
25 The synchronicity of events can only lead to the inescapable
26 conclusion that Defendants are making every attempt to deprive
27 Plaintiff and other patients at CSH the right to freedom of
28 speech and the right of the people to peaceably assemble.

01 Plaintiff avers that he and the other patients were protesting
02 peacefully. On the evening of Tuesday, March 7, 2006, Tom Hunt,
03 CSH Spokesman, stated in a news report that aired on KMPH TV in
04 Fresno, that the "protest is peaceful - and I want to stress
05 peaceful!" At no time did any of the protesters do anything that
06 could be construed as violent, or even a prelude to violence. The
07 patients on the picket line did not shout slogans or even march.
08 They stood stationary against the MCY windows, silently holding
09 signs. At no time did DPS ever intervene, requesting the pickets
10 to leave, hold down any noise, etc. The pickets were quiet,
11 polite and circumspect in every respect. Defendants did not like
12 the fact that the patients were striking, and that the patients
13 were able to contact representatives of the media.

14 The spokesman for CSH was disingenuous when he spoke on the
15 "purpose for the strike." Mr. Hunt claimed that the patients were
16 striking for "increased staffing". That simply was not true, and
17 Mr. Hunt was well aware of the reasons we were striking.
18 Defendants were also less than truthful when it released further
19 information to the media stating that the "strike was over", or
20 that no more than a hand full of patients had participated. As of
21 today Defendants can honestly say that there are no more patients
22 picketing. But that's only because they have made it impossible
23 for patients to picket by not allowing us to go to the Mall.

24 The Mall is best characterized as a "municipal area". The Mall
25 is a huge obloid shaped area that has a Gym, Post Office, Fast
26 Food Restaurant, Store, Barber Shop, Patients' Rights Advocate
27 Office, Vocational Office, Library, Main Court Yard, Arts and
28 Crafts, Music, Education Building, etc., in the middle of the

01 Mall. Also in the center of the Mall is another hall that
02 connects to the Visiting Room and the Grand Meeting Hall. At
03 either end of the Mall are access to other shared services, such
04 as medical clinics, Chapels, etc. In short, the Mall is similar
05 in design and function to an indoor shopping mall.

06
07 -ARGUMENT-
08

09 "Persons with mental illness have the same legal rights and
10 responsibilities guaranteed all other persons by the Federal
11 Constitution and laws and the Constitution and laws of the State
12 of California, unless specifically limited by federal or state
13 law or regulations. No otherwise qualified person by reason of
14 having been involuntarily detained for evaluation or treatment
15 under provisions of this part or having been admitted as a
16 voluntary patient to any health facility, as defined in Section
17 1250 of the Health and Safety Code, in which psychiatric
18 evaluation or treatment is offered shall be excluded from
19 participation in, be denied the benefits of, or be subjected to
20 discrimination under any program or activity, which receives
21 public funds." (§ 5325.1 Welfare and Institutions Code)

22 "Congress shall make no law respecting an establishment of
23 religion, or prohibiting the free exercise thereof, or abridging
24 the freedom of speech, or of the press, or the right of the
25 people to peaceably assemble, and to petition the government for
26 a redress of grievance." (U.S. Constitution, First Amendment)

27 "The right to freely express one's beliefs or ideas, unpopular
28 as they may be, is essential to nearly every other form of

01 freedom." (**Palko v Connecticut**, 302 U.S. 1)

02 "An individual's freedom to speak, to worship, and to petition
03 government for the redress of grievances could not be vigorously
04 protected from interference by the State unless a correlative
05 freedom to engage in group effort towards those ends were not
06 also guaranteed. [Citation.] According protection to collective
07 effort on behalf of shared goals is especially important in
08 preserving political and cultural diversity and in shielding
09 dissident expression from suppression by the majority.

10 [Citations.] Consequently, we have long understood as implicit in
11 the right to engage in activities protected by the First
12 Amendment a corresponding right to associate with others in
13 pursuit of a wide variety of political, social, economic,
14 educational, religious and cultural ends." (**Robert v United**
15 **States Jaycees** [1984] 468 U.S. 609, 622)(**Curran v Mount Diablo**
16 **Council of the Boy Scouts of America**, 17 Cal. 4th 670; 72 Cal.
17 Rptr. 2d 410)

18 "The right to petition may also occasionally implicate the
19 right of assembly..." (**Mine Workers v Illinois Bar Assn.**, 389
20 U.S. 217)

21 "Full and free discussion has indeed been the first article of
22 our faith. We have founded our political system on it." (**Dennis v**
23 **United States**, [1951] 341 U.S. 494)

24 "Under limited circumstances, people are entitled to exercise
25 First Amendment right on private property which has assumed all
26 the characteristics of a municipality and has been devoted
27 sufficiently to public use..." (**Marsh v Alabama**, 326 U.S. 501)

28 "The right to peaceable assembly is a right cognate to those

01 of free speech and free press and is equally fundamental.
02 'Assembly, like speech, is indeed essential in order to maintain
03 the opportunity for free political discussion, to the end that
04 government may be responsive to the will of the people and that
05 changes, if desired, may be obtained by peaceful means.'

06 (Citation omitted.) 'The holding of meetings for peaceable
07 political action cannot be proscribed.' (Citation omitted.)
08 (**Theodore Gibson v Florida Legislative Investigation Committee**,
09 372 U.S. 539, 83 S. Ct. 889)

10 "People assemble in public places not only to speak or to take
11 action, but also to listen, observe and learn; indeed they may
12 'assembl[e] for any lawful purpose.'" (**Richmond Newspapers v**
13 **Commonwealth of Virginia**, 448 U.S. 555, 100 S. Ct. 2814)

14 "And I cannot too often repeat my belief that the right to
15 speak on matters of public concern must be wholly free or
16 eventually be lost. ¶ It seems self-evident that all speech
17 criticizing government rulers and challenging current beliefs may
18 be dangerous to the status quo. With full knowledge of this
19 danger the Framers rested our First Amendment on the premise that
20 the slightest suppression of thought, speech, press, or public
21 assembly is still more dangerous. This means that individuals are
22 guaranteed an undiluted and unequivocal right to express
23 themselves on questions of current public interest. It means that
24 Americans discuss such questions as of right and not on
25 sufferance of legislatures, courts, or any other governmental
26 agencies." (**Wieman v Updegraff**, 344 U.S. 183, 73 S. Ct. 215)

27 "The greater importance of safeguarding the community from
28 incitements to the overthrow of the our institutions by force and

01 violence, the more imperative is the need to preserve inviolate
02 the constitutional right of free speech, free press and free
03 assembly in order to maintain the opportunity for free political
04 discussion, to the end that government may be responsive to the
05 will of the people and that changes, if desired, may be obtained
06 by peaceful means. Therein lies the very foundation of
07 constitutional government." (**De Jonge v State of Oregon**, 299 U.S.
08 353, 57 S. Ct. 255)

09 "First Amendment rights, applied in light of the special
10 characteristics of the school environment, are available to
11 teachers and students. It can hardly be argued that either
12 students or teachers shed their constitutional rights to freedom
13 of speech or expression at the schoolhouse gate." (**Tinker v Des**
14 **Moines School District**, 393 U.S. 503, 89 S. Ct. 733)

15 "In our system, state operated schools may not be enclaves of
16 totalitarianism. School officials do not possess absolute
17 authority over their students. Students in schools as well as out
18 of school are 'persons' under our Constitution. They are
19 possessed of fundamental rights which the State must respect,
20 just as they themselves must respect their obligations to the
21 State. In Our system, students may not be regarded as closed-
22 circuit recipients of only that which the State chooses to
23 communicate. They may not be confined to the expression of those
24 sentiments that are officially approved. In the absence of a
25 specific showing of constitutionally valid reasons to regulate
26 their speech, students are entitled to freedom of expression of
27 their views. As Judge Gewin, speaking for the Fifth Circuit,
28 said, school officials cannot suppress 'expression of feelings

01 with which they do not wish to contend." (Citation
02 omitted)(**Tinker v Des Moines School System**, supra.)

03
04 -EXHAUSTION-

05
06 "Exhaustion of remedies is not required where there is a
07 violation of a fundamental right." (**In re Eric O. Locks**, 87 Cal.
08 Rptr. 2d 303)

09 "Detainee who was civilly committed to state hospital under
10 California's Sexually Violent Predators Act was not a "prisoner"
11 within the meaning of the Prison Litigation Reform Act (PLRA) and
12 thus, he was not subject to the PLRA's financial reporting and
13 exhaustion requirements..." (**Page v Torrey**, 201 F. 3d 1136)

14 The grievance procedure in place at CSH does not meet
15 constitutional muster. There are no time limits in place for
16 Defendants to answer grievances.

17
18 -PRAYER-

19
20 Plaintiff respectfully prays this court grant Plaintiff
21 declaratory and injunctive relief enjoining Defendants from
22 violating Plaintiff's First Amendment Constitutional rights of
23 freedom of speech and peaceful assembly. Plaintiff seeks punitive
24 damages in the amount of \$20,000 and recovery of all costs
25 associated with litigation.

26 Plaintiff request this court issue a temporary injunction
27 enjoining Defendants from barring Plaintiff and other patients
28 from engaging in quiet, nonviolent picketing on the Mall. The

01 Mall is the "Commons" of CSH.

02 Plaintiff request this court issue a temporary injunction
03 enjoining Defendants from barring Plaintiff and other patients
04 from using "felt tip markers" for the expressed purpose of making
05 signs expressing their opinions. Prior to the protest, patients
06 were allowed to use the felt tip markers without restriction.

07 Plaintiff request this court issue a temporary injunction
08 enjoining Defendants from only allowing 30 patients on the Main
09 Courtyard at one time. Prior to the protest, up to 160 patients
10 had been on the Main Courtyard at one time.

11 Plaintiff request this court issue a temporary injunction
12 enjoining Defendants from engaging in other peaceful, nonviolent
13 forms of protest, without fear of summarily losing their hospital
14 privileges. Defendants routinely take patients' hospital
15 privileges without providing them any advanced notice, any
16 opportunity to be heard, or any other form of procedural due
17 process.

18 Plaintiff request this court issue a permanent injunction
19 enjoining Defendants from barring Plaintiff and other patients
20 from engaging in quiet, nonviolent picketing on the Mall. The
21 Mall is the "Commons" of CSH.

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05 forms of protest, without fear of summarily losing their hospital
06 privileges. Defendants routinely take patients' hospital
07 privileges without providing them any advanced notice, any
08 opportunity to be heard, or any other form of procedural due
09 process.

10 Plaintiff prays this court grant any other relief it deems
11 prudent and necessary.

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14 Signed: Ronald W Ward

Dated: 3-19-06

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