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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MARK F. CANFIELD, on behalf of all persons )  
similarly situated, )

Plaintiffs, )

v. )

CHIEF JOHN R. BATISTE of the Washington )  
State Patrol, in his individual capacity, )  
ASSISTANT CHIEF GREGORY E. MILLER )  
of the Washington State Patrol, in his )  
individual capacity; CAPTAIN JEFFREY )  
SASS of the Washington State Patrol, in his )  
individual capacity; JOHN AND JANE DOE )  
Defendants 1-25, in their individual capacities, )

Defendants. )

No. C11-5994RJB

ORDER GRANTING MOTION FOR  
TEMPORARY RESTRAINING ORDER

This matter having come before the court on December 6, 2011, on Plaintiff Mark F. Canfield's Motion for an Ex Parte Temporary Restraining Order. The court has reviewed the documents and records filed herein, and has heard oral argument of the parties.

1 1. The Court finds as follows:

2 A. Defendants received adequate notice by personal service and that  
3 Plaintiff's counsel made additional efforts to give notice by service of the complaint by  
4 email;

5 B. Defendants appeared by counsel at the hearing on this matter;

6 C. Plaintiff's declaration provides an adequate and verified foundation for  
7 this Order;

8 D. Requiring a bond would have a negative impact on Plaintiff's  
9 constitutional rights, as well as the constitutional rights of other members of the public  
10 affected by the policy; defendants do not oppose waiver of the bond.

11 2. Based on these findings, the Court makes the following conclusions of law:

12 A. Plaintiff has standing;

13 B. This Court has jurisdiction over Plaintiff's claims;

14 C. Plaintiff has shown that he is likely to succeed on the merits for the  
15 following reasons: The restrictions at issue involve the First Amendment rights to  
16 freedom of assembly; freedom of speech, and freedom of the press; there is no authority  
17 in statute or in the administrative code for this broad-based prior restraint; the  
18 restrictions are not reasonable as to time, place or manner, although they are content  
19 neutral; and the restrictions are not narrowly tailored to serve a significant governmental  
20 interest. *See Clark v. Community for Creative Non-Violence*, 468 U.S. 288 (1984).

21 D. Plaintiff has shown that he is suffering, and will continue to suffer,  
22 irreparable harm involving violation of his constitutional rights if he is not granted  
23 preliminary relief;

24 E. The balance of equities tips in Plaintiff's favor because the restrictions  
25 appear to be the result of an *ipse dixit* policy in the absence of authority; and  
26

1 F. An injunction is in the public interest, which is the preservation of  
2 constitutional First Amendment rights.

3 The Court waives the bond requirement of Federal Rule of Civil Procedure 65(c),  
4 because the high probability of success on the merits favors exercising the court's discretion to  
5 dispense with such security, *People ex rel. Van de Kamp v. Tahoe Regional Planning Agency*,  
6 766 F.2d 1319, 1326 (9th Cir. 1985); it appears unlikely that defendants would incur any  
7 significant cost or damages as a result of the preliminary injunction, *U.S. v. State of Or.*, 675 F.  
8 Supp. 1249, 1253 (D. Or. 1987); and to require a bond would have a negative impact on  
9 Plaintiff's constitutional rights, as well as the constitutional rights of other members of the  
10 Class and the public affected by the policy. *Baca v. Moreno Valley Unified Sch. Dist.*, 936 F.  
11 Supp. 719, 738 (C.D. Cal. 1996).

12 Accordingly, it is hereby ORDERED that plaintiff's motion for a temporary restraining  
13 order is GRANTED as follows: Defendants John R. Batiste, Gregory E. Miller, and Jeffrey  
14 Sass, in their official capacities, are restrained and directed as follows:

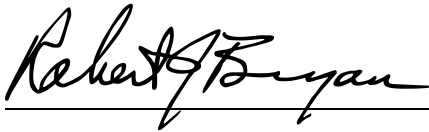
15 1. Defendants shall not personally, or allow others in their control, to issue  
16 Trespass Warnings banning individuals from the Capitol Campus and other government  
17 property.

18 2. Defendants shall not personally, or allow others in their control, to arrest  
19 individuals based **solely** on the violation of a Trespass Warning.

20 3. This Temporary Restraining Order shall remain in effect until the hearing on the  
21 motion for preliminary injunction, which is set for hearing on January 5, 2012 at 1:30 p.m.

22 4. This order **does not** prohibit arrests for violations of the criminal laws.

23 DATED this 6th day of December, 2011.

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26 ROBERT J. BRYAN  
United States District Judge