

responsible for the treatment of military detainees in Guantanamo Bay, Iraq, and Afghanistan. He resides in Taos part time and has been acknowledged by all including himself as being one of the prime architects of the War on Iraq.

2. Rumsfeld, together with fellow neo-conservatives whom he eventually hired to help him run the Pentagon, proposed taking over Iraq in a letter to President Clinton in 1998.

3. The day after 9/11 when Al Quaida in Afghanistan was generally acknowledged as the cause of the Trade Center attacks, Rumsfeld's response at a National Security Council meeting was "Let's bomb Iraq".

4. In the days leading up to the current Iraq war Donald Rumsfeld told numerous falsehoods to Congress and the American people to gain their support for his war including that he knew the exact locations in Iraq where weapons of mass destruction were located. This of course was proven false as there were no WMDs at the locations he indicated or anywhere else in Iraq.

5. As the war was approaching the Action Coalition of Taos organized a very large protest march to Rumsfeld's house in October 2002, not only calling for his being removed as Secretary of Defense, but also that he be indicted and tried as a war criminal for "waging aggressive war." "Waging aggressive war" is the most serious of the war crimes under the Geneva Conventions and the one on which the Nuremburg defendants were tried, convicted, and given the death penalty. Waging war on another country without an imminent threat to one's own country and without

United Nations approval constitutes waging aggressive war.

6. In March 2004, the Action Coalition of Taos obtained a permit for a Toppie Rumsfeld rally on the Plaza. To publicize this rally, A.C.T. applied for and obtained permission to hang the exact banner which they are seeking to hang currently, only with different dates. The banner read:

“Act Against Empire. A.C.T. Now for Peace. Fire Rumsfeld! Peace Rally” and the dates and location of the rally.

7. Following the display of the A.C.T. banner , there was controversy because some people on the Town Council disagreed with the content of the banner and as a result the Town council passed new Regulations regarding Banner Use and Regulations. See, Exhibit B. (The Banner Use and Regulations has the exact wording as it did before except for the added paragraphs 11 and 12.)

8. The first ten of the new Regulations read essentially the same as the previous regulations. Added however were the following provisions:

(11) Political banners will not be allowed for. “Political Banner” means any sign or banner intended to advertize or contain information about or soliciting votes for a candidate , a current elected official, political party, proposal or issue or anysort or any matter relating to or at issue in a specific manner or any particular election or any issue concerned with the form, organization, and administration of State, Federal, or Local public bodies regarding regulations, laws, ordinances and policy of such public body or individuals or other comments related

as so provided herein.

(12) The following banners advertizing support to the community shall be placed if space permits. They are "Congratulations Seniors! Please....Don't drink & drive." Trek for Trash (town sponsored) Yuletide (town sponsored and patriotic banners. Political banners are prohibited except for town sponsored patriotic banners. (Sic)

9. Subsequent to the Topple Rumsfeld Rally substantial disclosures have been made about the torturing and abuse of prisoners in Iraq's Abu Ghraib Prison, Guantanamo Bay, and in Afghanistan prisons. The Dept of Defense and Donald Rumseld are alleged to have direct responsibility for the atrocities which took place.

10. A lawsuit was filed 10 days ago in Chicago by the ACLU and Human Rights First on behalf of persons beaten and tortured in military prisons. The Plaintiffs named Donald Rumsfeld as the principal defendant, alleging that he solicited and created the regulations specifically rescinding the military's previous ban on torturing persons in their custody, (The December '02 Rumsfeld techniques" specifically approved by him included the use of "stress positions" 20-hour interrogations, the removal of clothing, playing upon a detainee's phobias to induce stress (such as through the use of dogs) isolation for up to 30 days and sensory deprivation. As a result of Rumsfeld's directives and policies, beating

prisoners, stripping them naked and sexually abusing them, and attacking them with dogs became routine interrogation procedures. As these abuses were reported to him, Rumsfeld failed to take any action to investigate or stop the abuses.

11. Based on the newest revelations pertaining to Rumsfeld and the continued U.S. occupation of Iraq, A.C.T. sought to schedule a Fire Rumsfeld Peace Rally for March 19th, the Second Anniversary of the Iraq invasion, on the Plaza. On Feb. 28, 2005 Plaintiff Cliff Bain filled out an application for a permit to hold the Rally at the Plaza on March 19th from 4:00 to 6:00 p.m. Ms.J. Fresquez, an employee of the Taos Park District informed Mr. Haas that permits for “peace rallies” had to be submitted to the Mayor for approval.

12. On March 2nd the Plaintiffs application to use the Plaza as a rally site was approved but Mr. Dennis Martinez, the Parks Superintendent informed Plaintiff Bain and Attorney Haas that current regulations required Plaintiffs to obtain a million dollar indemnity policy if they expected more than 50 people to be present.

13. Upon Mr. Haas’ request, Mr. Martinez forwarded him a copy of the applicable regulations which read as follows:

“The Town of Taos requests that organizations carry liability insurance for their event. If your organization does not carry this type of liability insurance, or is [not] sic willing to obtain it, you and each vendor must sign a waiver (indemnification) releasing the town from any and all liability during the event. For events with 30 or more vendors,

this kind of insurance is mandatory. The insurance must name the town of Taos as ‘additionally assured.’”

14. Mr. Haas informed Mr. Martinez that the regulations indicated that obtaining liability insurance was optional, that Plaintiffs had already signed the waiver and that no vendors were anticipated and thus the Regulations did not require A.C.T. to have liability insurance. Mr. Haas also stated that to require liability insurance before a group could assemble and speak out in a public place specifically set aside for assemblies would be an obvious infringement of the Rights of free speech and assembly.

15. Mr. Martinez advised Mr. Haas that Plaintiffs should submit the issue to the Mayor.

16. On March 3, the attached letter Exhibit A was hand delivered to the Mayor and faxed to Mr. Martinez, but there has been no response.

17. Nevertheless Plaintiffs assume that because they have approval for the rally, have signed the insurance waiver, paid the applicable fee, and because the regulations do not mandate carrying insurance, they will be allowed to proceed with the rally on March 19th without insurance.

18. Upon inquiry about the availability of the location over Highway 64 at Civic Plaza Drive which space the Town of Taos rents, for purposes of hanging banners, Ms. Fresquez informed Mr. Bain that the week of March 7th to 14th was available, but not the following week and that he should submit the text of the Banner to the town of Taos for approval. See attached mock-up of banner Exhibit C.

19. The week of March 7th to March 14th is the only period prior to Plaintiffs' scheduled rally when the space is available for their banner and the space provides the best location in Taos to publicize an upcoming event.

20. On Friday March 4th Mr. Martinez informed the attorneys for A.C.T. that they could not have the banner hung. However, if they omitted from the text "Fire Rumsfeld" they could resubmit the banner. The attorney for the Town justified her denial of permission on Regulation #5 which reads "Text for the banner must be for the event and sponsor only. Only banners advertizing public entertainment or civic events will be allowed." See, letter attached as Exhibit D.

21. Plaintiffs assert that a major theme of the upcoming rally all of their rallies and marches in the past is to "Fire Rumsfeld" and that these words describe the rally. As such they are "for the event and sponsor" and do not violate the Regulation.

22. In the past Plaintiffs have sought and obtained permission from the town of Taos to hang the same banner (except with different location and date) which they are submitting now.

23. Plaintiffs assert that the current banner has been refused because Rumsfeld is a controversial figure in Taos, not because the banner wording violates any valid provision of the Rules or Regulations.

24. On a previous occasion the Town of Taos itself created and hung the banner over Highway 64 which read "The Town of Taos welcomes Vice

Pres. Dick Cheney and Secretary of Defense Rumsfeld.” Thus it appears that Pro Rumsfeld statements are allowed but anti-Rumsfeld statements are not.

25. On other occasions the town of Taos has allowed banners saying “Support the Troops”, not limiting the space to banners describing an event or its sponsor.

26. Regulations 11 and 12 which would prohibit the use of the current banner and in fact any banner which the mayor considered “political” or not “patriotic” are blatantly unconstitutional on their face and should be declared so by this Court. They create a chilling effect on protected speech and inhibit free speech and ideas.

27. Unless this Court enters an emergency temporary restraining order against the Defendants prohibiting them from refusing to allow Plaintiffs to hang their banner, Plaintiffs will be deprived of their opportunity to express their opinions and beliefs on issues of public concern, to effectively describe and advertize their rally, and their rights of free speech and assembly will be effectively chilled. Plaintiffs will suffer irreparable harm. See, Attached Exhibit E, Affidavit of Cliff Bain.

28. By contrast the town of Taos will not suffer any damages and the granting of the temporary restraining order will in no way be adverse to the public interest.

29. Finally there is a substantial likelihood that Plaintiffs will prevail on the merits because the regulations are unconstitutional on their face and as applied to Plaintiffs’ requests. (See, Complaint and

Memorandum of Law in Support of Declaratory Relief, Temporary Restraining Order, and Injunctive Relief.)

WHEREFORE Plaintiffs pray that this Court grant their Emergency Application for Temporary Restraining Order prohibiting defendants from denying them access to hang their banner on the dates March 7th to March 14th , 2005, attorneys fees for bringing this action, and such further relief as this court may deem proper.

Dated: March 7, 2005

Respectfully Submitted,

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