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4 This is a preliminary version.

5 This document is <http://www.lawyerDude.netfirms.com/7971.pdf>  
6 Editable copy available on request.

List of Defense documents in this case is here: <http://www.lawyerDude.netfirms.com/7970.html>

7

**Superior Court of California. Kearny Mesa Division.**

8 [http://www.sdcourt.ca.gov/portal/page?\\_pageid=53,129603&\\_dad=portal&\\_schema=PORTAL](http://www.sdcourt.ca.gov/portal/page?_pageid=53,129603&_dad=portal&_schema=PORTAL)  
9 8950 Clairemont Mesa Boulevard, San Diego, California 92123  
858-565-1006 - Traffic Information

10

11 Clerk of Court, a high school graduate,  
having unlawfully usurped the  
12 prosecutorial function that is solely the  
province of the elected prosecutor,  
13 dba under false color of law and  
corrupt legal fiction as "The People of  
14 California,"

v

15 Forrest Bishop, a domiciliary of Washington,  
objecting herein to this egregious  
16 unconstitutional usurpation of the  
prosecutorial function ,  
17 Defendant.

Case Number:  
Ticket #

Document #7971 Version 1.000  
2<sup>nd</sup> Substantive Motion of Forrest Bishop.  
**Demurrer based on Vagueness and  
Overbreadth**

Date: Thursday 16 November 2006  
Time: 1:30 pm  
Place: Arraignment courtroom.

18

**Notice of Motion and Partial Waiver of time.**

19 At the venue designated in the caption or at such other venue as the court shall otherwise  
20 designate, I will demur as set forth in more detail herein.

**Waiver of Speedy Trial Rights to Hear this Motion.**

21 I waive my speedy trial rights as necessary to do this motion and my other motions.

22 Signed \_\_\_\_\_ Forrest Bishop. Tuesday, September 12, 2006

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**Statement of the case**

This case arises from a traffic stop at 11 pm on Sunday 16 July 2006.  
in the early morning hours of Tuesday 4 April, 2006.

There was no basis for the traffic stop. If there were a prosecutor he would be required to reject this case. However, the clerk, an uneducated person biased in this case by money to be added to the fund that pays her. See for example: *Tumey v Ohio* (1927) 273 U.S. 510. In this prohibition era case, the city received \$5 for each conviction. <http://www.lawyerdude.8k.com/Tumey.html>  
She has usurped the prosecutorial function. Ironically the police officer usurped the clerk’s function which is to summon people to court only after there is a case filed by a duly authorized person - which there was not when the police officer issued the faux, spurious summons to appear in court.

At 11 pm On the evening of Sunday 16 July 2006 I arrived in my car at Garnet Avenue in San Diego to pick up a pizza. I dropped off my friend R and circled the block. I found a parking spot at the curb. Before I could parallel park, R returned with the pizza and another friend KK. They got into my car which was not “double parked” on the street in front of the pizza shop for a matter of seconds while my passengers boarded.

A police officer saw my out of state license plates. He then performed a pretextual traffic stop and gave me a ticket for violating the following ambiguous and overbroad statute which invites the very unbridled discretion that I observed that night:

1 California Vehicle code section 22400. (a) No person shall drive  
2 upon a highway at such a slow speed as to impede or block the  
3 normal and reasonable movement of traffic, unless the reduced  
4 speed is necessary for safe operation, because of a grade, or in  
5 compliance with law.

6 No person shall bring a vehicle to a complete stop upon a  
7 highway so as to impede or block the normal and reasonable  
8 movement of traffic unless the stop is necessary for safe operation  
9 **or in compliance with law.** - Section 22400 in its entirety.

10 The law employs the logical fallacy of circular logic. To wit: 22400 prescribes stopping on the  
11 highway unless it is legal to stop on the highway. In other words the law prescribes that **stopping**  
12 **is illegal except when it is legal. Huh?**

13 I discuss the issue of this defective statute in my Demurrer #7971:

14 [Http://www.lawyerdude.netfirms.com/7971.pdf](http://www.lawyerdude.netfirms.com/7971.pdf)

15 To this date, I have been served neither a valid summons nor a verified complaint. I  
16 therefore demand dismissal. I demand that this court recognize that I have neither been properly  
17 summoned to court nor properly prosecuted by an authorized prosecutor. Instead a mere police  
18 officer performed the legal nullity of serving me a substitute for a summons. The officer has no  
19 authority to summon me to court; issuance of a summons is the duty of the clerk. The officer may  
20 not ordain himself a clerk even if the legislature so deems.

21 The clerk, who would ordinarily issue summonses, now elevates herself to the position of  
22 prosecutor by prosecuting this case without the formality of a complaint. Only a prosecutor can file  
23 a complaint. The clerk may not ordain herself to the status of prosecutor.

24 By stealthy encroachment our oppressive governments encroach. Corporations including  
25 governments enjoy eternal life and infinite wealth. They tell the lie over the course of generations.

26 My children do not know the lie that the government told my parents. This truth about the lie is  
27 most obvious regarding income taxes. They were sold to Americans around 1909 as a tax that  
28 would never tax the wages of the working man.

Every court wants to be a profit center. They presume to be working for the greater good.  
The city justifies traffic tickets as a means to raise revenue. In New Orleans the Public Defender  
is paid from revenue from parking meters.

In American the individual is king.

So now we have a dynamic tension: the struggle between the individual human and the  
corporate/ government for hegemony. Today the various governments have sent forth swarms  
of employees to eat up all our wealth.

This will not stand.

### **The Accusatory Statute in this case:**

1 the following ambiguous and overbroad statute which invites the very unbridled discretion  
2 that I observed that night:

3 California Vehicle code section 22400. (a) No person shall drive  
4 upon a highway at such a slow speed as to impede or block the  
5 normal and reasonable movement of traffic, unless the reduced  
6 speed is necessary for safe operation, because of a grade, or in  
7 compliance with law.

8 No person shall bring a vehicle to a complete stop upon a  
9 highway so as to impede or block the normal and reasonable  
10 movement of traffic unless the stop is necessary for safe operation  
11 **or in compliance with law.** - Section 22400 in its entirety.

12 The law employs the logical fallacy of circular logic. To wit: 22400 prescribes stopping on  
13 the highway unless it is legal to stop on the highway. In other words the law prescribes that  
14 **stopping is illegal except when it is legal. Huh? Prosecution under this statute is**  
15 **prohibited by the due process clause of the 14<sup>th</sup> amendment.**

16 **Argument and Memorandum of Law Supporting Suppression.**

17 **The statute is fatally overbroad and fatally vague.**

18 **Table of Authorities cited herein:**

19 **U.S. Constitutional Clauses cited herein:**

20 Due Process Clause of the 14<sup>th</sup> Amendment. . . . Page 4 of 12, Page 6 of 12, Page 8 of 12-  
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22 **U.S. Supreme Court Cases cited herein:**

23 ***American Net & Twine Co. v. Worthington***, 141 U.S. 468 , 35 L. ed. 821, 12 Sup. Ct. Rep. 55  
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25 ***Aptheker v. Secretary of State***, 378 U.S. 500 , 508-509 (1964). ..... Page 11 of 12

26 ***Baggett v. Bullitt***, 377 U.S. 360, 372 (1964) ..... Page 11 of 12

27 ***Benziger v. U.S.***, 192 U.S. 38 (1904). ..... Page 9 of 12

28 ***City of Mesquite v. Alladin's Castle, Inc.***, 455 U.S. 283 (1982). ..... Page 11 of 12

***Cline v. Frink Dairy Co.***, 274 U.S. 445, 47 S. Ct. 681 (1927) ..... Page 10 of 12

***Coates v. Cincinnati***, 402 U.S. 611, 614 ( 1971). ..... Page 10 of 12

***Collins v. Kentucky*** (1914) Tobacco case. <http://www.lawyerdude.netfirms.com/vague14.html>  
234 U.S. 634, 638 , 34 S. Ct. 924 [269 U.S. 385, 393] ..... Page 8 of 12

***Connally v General Construction*** (1926) 269 U.S. 385 <http://www.lawyerdude.netfirms.com/vague26.html>  
..... Page 7 of 12, Page 10 of 12

***Dombrowski v. Pfister***, 380 U.S. 479, 486 (1965) ..... Page 11 of 12

***Giaccio v. State of Pennsylvania*** (1966) 382 U.S. 399; 86 S.Ct. 518. .... Page 9 of 12

1 **Gould v. Gould**, 245 US., 151 (1917) ..... Page 9 of 12

2 **Grayned v. City of Rockford**, 408 U.S. at 108-09 & n. 4 <http://www.lawyerdude.netfirms.com/grayned.html>  
 ..... Page 11 of 12

3 **International Harvester Co. v. Kentucky**, 234 U.S. 216, 221 , 34 S. Ct. 853 ... Page 8 of 12

4 **Karlan v. City of Cincinatti**, 416 U.S. 924 (1974). ..... Page 10 of 12

5 **Marbury v. Madison** (1803) <http://www.lawyerdude.netfirms.com/marbury.html> 5 U.S. (1 Cranch.)  
 6 137 ..... Page 11 of 12

7 **NAACP v. Alabama**, 377 U.S. 288, 307 (1964). ..... Page 11 of 12

8 **NAACP v. Alabama**, 377 U.S. 288, 307 (1964). A vague statute may be overbroad if its uncertain  
 9 boundaries leave open the possibility of punishment for protected conduct and thus lead citizens  
 10 to avoid such protected activity in order to steer clear of the uncertain proscriptions.  
 ..... Page 11 of 12

11 **Papachristou v. City of Jacksonville** (1971) <http://www.lawyerdude.netfirms.com/papachri.html>  
 12 405 U.S. 156. Vague laws defeat the intrinsic promise of, and frustrate the essence of, a  
 constitutional regime. .... Page 10 of 12, Page 11 of 12

13 **Rector, Etc., Of Holy Trinity Church v. United States** (1892)  
<http://www.lawyerdude.netfirms.com/vague92.html> 143 U.S. 457; 12 S.Ct. 511 ..... Page 9 of 12

14 **Sewell v. Georgia**, 435 U.S. 982 (1978) ..... Page 10 of 12

15 **Shelton v. Tucker**, 364 U.S. 479, 488 (1960). ..... Page 11 of 12

16 **Shuttlesworth v. Birmingham**, 382 U.S. 87 , 90-91, 15 L. Ed.2d 176 (1965)  
<http://www.lawyerdude.8m.com/5089.html> (Includes photograph of Reverend Fred Shuttlesworth)  
 17 ..... Page 10 of 12

18 **Speiser v. Randall**, 357 U.S. 513, 526 (1958). ..... Page 11 of 12

19 **United States v. Harriss**, 347 U.S. 612, 617 ( 1954). ..... Page 10 of 12

20 **United States v. Wigglesworth**, 2 Story, 369, Fed. Cas. No. 16,690. .... Page 9 of 12

21 **Winters v. People of State of New York** (1948) 333 U.S. 507; 68 S.Ct. 665. ... Page 9 of 12

22 **Zwickler v. Koota**, 389 U.S. 241, 250 (1967), quoting **NAACP v. Alabama**, 377 U.S. 288, 307  
 23 (1964). "Overbreadth, on the other hand, 'offends the constitutional principle that 'a governmental  
 24 purpose to control or prevent activities constitutionally subject to state regulation may not be  
 achieved by means which sweep unnecessarily broadly and thereby invade the area of protected  
 freedoms." ..... Page 11 of 12

25

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26 **Federal Circuit Cases cited herein:**  
**Rice v. United States**, 4 C. C. A. 104, 10 U. S. App. 670, 53 Fed. 910. .... Page 9 of 12

27 **U.S. v Eric Colin** (9th circuit 2002) <http://www.fu.gq.nu/colin.html> is binding precedent in this case.

1 The term "as nearly as practicable" is impermissibly and unconstitutionally vague. I have searched  
2 the case file. There is no description of what I did that violates the law. Merely touching the lane  
3 divider line is insufficient justification to justify a traffic stop. That is the subject of a concurrent  
4 motion to suppress evidence. This Colin case is binding precedent in the instant case. This court  
has no discretion. They must dismiss my case.  
<http://caselaw.lp.findlaw.com/data2/circs/9th/0150140p.pdf> As to what would make a lane change  
unsafe, this defective statute fails to warn me. . . . . Page 7 of 12

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5 **Federal District Court cases cited herein:**

6 630 F.2d, at 1037 . . . . . Page 12 of 12  
7 ***U.S. v. De Cadena***, 105 F.Supp. 202, 204 (1952). . . . . Page 9 of 12

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8 **Statutes cited herein:**

9 California Vehicle code section 22400. (a) No person shall drive upon a highway at such a slow  
10 speed as to impede or block the normal and reasonable movement of traffic, unless the reduced  
11 speed is necessary for safe operation, because of a grade, or in compliance with law. No person  
12 shall bring a vehicle to a complete stop upon a highway so as to impede or block the normal and  
reasonable movement of traffic unless the stop is necessary for safe operation **or in compliance  
with law.** - Section 22400 in its entirety. This statute is impermissibly vague and cannot be the  
basis for the traffic stop on a city street. . . . . Page 3 of 12

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13 **Scholarly Treatises cited herein:**

14 ***Public Licenses and Private Rights*** (1953) Excerpts from 33 Oregon Law Review 1  
(Barnett, 1953) published at: <http://www.lawyerdude.8k.com/5943.html> . . . Page 7 of 12  
15  
16 ***The Void-for-Vagueness Doctrine in the Supreme Court***, 109 U. Pa. L. Rev. 67 (1960).  
. . . . . Page 11 of 12

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17 **Argument**

18 **Argument in Support of Demurrer based on Overbreadth and Vagueness**

19 This statute is unconstitutionally overbroad and vague and cannot for the basis of a criminal  
20 complaint. Furthermore the complaint does not say what I did to violate that section. Furthermore  
there is no complaint.

21 ***U.S. v Eric Colin*** (9th circuit 2002) <http://www.fu.gq.nu/colin.html> is illustrative. The term  
22 "as nearly as practicable" is impermissibly and unconstitutionally vague. I have not seen the files.  
23 There is no description of what I did that violates the law. Merely touching the lane divider line is  
24 insufficient justification to justify a traffic stop and some bald allegation that I failed to yield is also  
insufficient. You must dismiss my case. <http://caselaw.lp.findlaw.com/data2/circs/9th/0150140p.pdf>  
25 As to where to draw the line between yielding and not yielding, this defective statute fails to warn  
26 me.

27 This statute denies the driver his constitutional right to **due process** by failing to adequately

1 instruct him as to what constitutes violation of the law. A vague statute violates the **due process**  
2 **clause** of the 14<sup>th</sup> amendment. This concept is known as **void for vagueness**. Vagueness is a  
3 subject of both constitutional law and criminal law. It is taught in every law school in this country  
4 and has been for the past 50 years. Some leading case regarding vagueness are **Grayned v**  
5 **Rockford** and **Connally v General Construction** (1926) 269 U.S. 385

6 <http://www.lawyerdude.netfirms.com/vague26.html> Vagueness is discussed at the following two  
7 articles:

8 <http://www.lawyer.gq.nu/vagueness.html> (Reprinted in the Appendix to this brief) and  
9 <http://www.fu.gq.nu/vague2.html>

10 In Connally a statute there was held to be fatally vague. The Supreme Court said:

11 The question whether given legislative enactments have been thus wanting in  
12 certainty has frequently been before this court. In some of the cases the statutes  
13 involved were upheld; in others, declared invalid. The precise point of differentiation  
14 in some instances is not easy of statement; but it will be enough for present  
15 purposes to say generally that the decisions of the court, upholding statutes as  
16 sufficiently certain, rested upon the conclusion that they employed words or phrases  
17 having a technical or other special meaning, well enough known to enable those  
18 within their reach to correctly apply them. - U.S. Supreme Court.

19 As for a more focused case regarding the very words used in this statute, a leading case  
20 pertaining to vagueness of the words "as nearly as practicable" is the case of **U.S. v Eric Colin** (9th  
21 circuit 2002) <http://www.fu.gq.nu/colin.html>

22 I have searched the case file. There is no description of what I did that violates the law.  
23 Merely touching the lane divider line is insufficient justification to justify a traffic stop. That is the  
24 subject of a concurrent motion to suppress evidence.

25 This Colin case is binding precedent in the instant case. This court has no discretion. You  
26 must dismiss my case.

27 <http://caselaw.lp.findlaw.com/data2/circs/9th/0150140p.pdf>

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### 28 **Regarding Licensing of Fundamental Rights.**

29 The legal subject of licenses is one where dynamic tension is at play. Our oppressive  
30 bureaucracies have by stealthy encroachment taken away our most basic rights and sold them  
31 back to use as licenses and permits. Those agencies and bureaus disparage the truth and attempt  
32 to make it seem as though all rights are the property of the state to be doled out at the whim of the  
33 state. Driving licenses and bar licenses are two examples. I recommend the following article to  
34 explain the confusion in the language of licenses and rights: **Public Licenses and Private Rights**

1 (1953) Excerpts from 33 Oregon Law Review 1 (Barnett, 1953) published at:  
2 <http://www.lawyerdude.8k.com/5943.html>

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4 **Appendix 1: Detailed Brief regarding the Doctrine entitled “Void for Vagueness”**  
5 **Void for Vagueness. Fourteenth Amendment Annotations**

6 This article is at <http://www.lawyerdude.netfirms.com/vagueness.html>

7 First annotation:

8 ***Connally vs. General Construction Co.*** (1926)

9 <http://www.lawyerdude.netfirms.com/vague26.html> 269 U.S. 385

10 The question whether given legislative enactments have been thus wanting in  
11 certainty has frequently been before this court. In some of the cases the statutes  
12 involved were upheld; in others, declared invalid. The precise point of differentiation  
13 in some instances is not easy of statement; but it will be enough for present  
14 purposes to say generally that the decisions of the court, upholding statutes as  
15 sufficiently certain, rested upon the conclusion that they employed words or phrases  
16 having a technical or other special meaning, well enough known to enable those  
17 within their reach to correctly apply them - Supreme Court in 1926 in ***Connally v***  
18 ***Gen. Construction.***

19 That the terms of a penal statute creating a new offense must be sufficiently explicit to  
20 inform those who are subject to it what conduct on their part will render them liable to its penalties  
21 is a well- recognized requirement, consonant alike with ordinary notions of fair play and the settled  
22 rules of law; and a statute which either forbids or requires the doing of an act in terms so vague  
23 that men of common intelligence must necessarily guess at its meaning and differ as to its  
24 application violates the first essential of **due process** of law.

25 ***International Harvester Co. v. Kentucky***, 234 U.S. 216, 221 , 34 S. Ct. 853; ***Collins v.***  
26 ***Kentucky***, 234 U.S. 634, 638 , 34 S. Ct. 924 [269 U.S. 385, 393]

27 <http://www.lawyerdude.netfirms.com/vague14.html> ...

28 The dividing line between what is lawful and unlawful cannot be left to conjecture.  
The citizen cannot be held to answer charges based upon penal statutes whose  
mandates are so uncertain that they will reasonably admit of different constructions.  
A criminal statute cannot rest upon an uncertain foundation. The crime, and the  
elements constituting it, must be so clearly expressed that the ordinary person can  
intelligently choose, in advance, what course it is lawful for him to pursue. Penal  
statutes prohibiting the doing of certain things, and providing a punishment for their

1 violation, should not admit of such a double meaning that the citizen may act upon  
2 the one conception of its requirements and the courts upon another.'

3 ***Rector, Etc., Of Holy Trinity Church v. United States*** (1892)

4 <http://www.lawyerdude.net/firms.com/vague92.html> 143 U.S. 457; 12 S.Ct. 511 :

5 "All laws should receive a sensible construction. General terms should be so limited  
6 in their application as not to lead to injustice, oppression, or an absurd  
7 consequence. It will always be presumed that the legislature intended exceptions  
8 to its language which would avoid results of this character. The reason of the law  
in such cases should prevail over its letter." - ***Rector, Etc., Of Holy Trinity Church  
v. United States*** 143 U.S. 457; 12 S.Ct. 511 (1892)

9 ***Winters v. People of State of New York*** (1948) 333 U.S. 507; 68 S.Ct. 665:

10 "Men of common intelligence cannot be required to guess at the meaning of penal  
11 enactment. "In determining whether penal statute is invalid for uncertainty, courts  
12 must do their best to determine whether vagueness is of such a character that men  
13 of common intelligence must guess at its meaning. "Where a statute is so vague as  
to make criminal an innocent act, a conviction under it cannot be sustained." -  
***Winters v. People of State of New York***, 333 U.S. 507; 68 S.Ct. 665 (1948)

14 ***Giaccio v. State of Pennsylvania*** (1966) 382 U.S. 399; 86 S.Ct. 518:

15 "Law fails to meet requirements of due process clause if it is so vague and standardless  
16 that it leaves public uncertain as to conduct it prohibits or leaves judges and jurors free to  
17 decide, without any legally fixed standards, what is prohibited and what is not in each  
particular case." - ***Giaccio v. State of Pennsylvania***, 382 U.S. 399; 86 S.Ct. 518 (1966)

18 ***Gould v. Gould***, 245 US., 151 (1917):

19 "In the interpretation of statutes levying taxes, it is THE ESTABLISHED RULE NOT  
20 TO EXTEND their provisions, by implication, BEYOND THE CLEAR IMPORT OF  
21 THE LANGUAGE USED, OR TO ENLARGE their operations SO AS TO EMBRACE  
MATTERS NOT SPECIFICALLY POINTED OUT"

22 ***Benziger v. U.S.***, 192 U.S. 38 (1904):

23 "This provision of the statute should be liberally construed in favor of the importer, and if  
24 there were any fair doubt as to the true construction of the provision in question, the courts  
25 should resolve the doubt in his favor. ***American Net & Twine Co. v. Worthington***, 141  
26 U.S. 468 , 35 L. ed. 821, 12 Sup. Ct. Rep. 55; ***United States v. Wigglesworth***, 2 Story,  
369, Fed. Cas. No. 16,690; ***Rice v. United States***, 4 C. C. A. 104, 10 U. S. App. 670, 53  
Fed. 910."

27 ***U.S. v. De Cadena***, 105 F.Supp. 202, 204 (1952):

1 "The essential purpose of the "void for vagueness doctrine" with respect to interpretation  
2 of a criminal statute, is to warn individuals of the criminal consequences of their conduct.  
3 ... Criminal statutes which fail to give due notice that an act has been made criminal before  
4 it is done are unconstitutional deprivations of due process of law."

4 **Hassett v. Welch** (1938) 303 US 303, pp. 314 - 315, 82 L Ed 858:

5 ". . . if doubt exists as to the construction of a taxing statute, the doubt should be  
6 resolved in favor of the taxpayer..."

6 **Sewell v. Georgia**, 435 U.S. 982 (1978):

7 As we said in **Grayned v. City of Rockford** (1972) 408 U.S. 104, 108 (1972): "It is a  
8 basic principle of **due process** that an enactment [435 U.S. 982 , 986] is void for  
9 vagueness if its prohibitions are not clearly defined. Vague laws offend several important  
10 values. First, because we assume that man is free to steer between lawful and unlawful  
11 conduct, we insist that laws give the person of ordinary intelligence a reasonable  
12 opportunity to know what is prohibited, so that he may act accordingly. Vague laws may  
13 trap the innocent by not providing fair warning. Second, if arbitrary and discriminatory  
14 enforcement is to be prevented, laws must provide explicit standards for those who apply  
15 them. A vague law impermissibly delegates basic policy matters to policemen, judges, and  
16 juries for resolution on an ad hoc and subjective basis, with the attendant dangers of  
17 arbitrary and discriminatory application." See also **Papachristou v. City of Jacksonville**,  
18 405 U.S. 156 (1972); **Cline v. Frink Dairy Co.**, 274 U.S. 445, 47 S. Ct. 681 (1927);  
19 **Connally v. General Construction Co.**, 269 U.S. 385 (1926).

17 **Karlan v. City of Cincinnati**, 416 U.S. 924 (1974):

18 "These cases all involve convictions under ordinances and statutes which punish  
19 the mere utterance of words variously described as 'abusive,' 'vulgar,' 'insulting,'  
20 'profane,' 'indecent,' 'boisterous,' and the like. The provisions are challenged as  
21 being unconstitutionally vague and overbroad. The 'void for vagueness' doctrine is,  
22 of course, a **due process** concept implementing principles of fair warning and  
23 non-discriminatory enforcement. Vague laws may trap those who desire to be  
24 law-abiding by not providing fair notice of what is prohibited. **Papachristou v. City**  
25 **of Jacksonville**, 405 U.S. 156, 162 (1972); **United States v. Harriss**, 347 U.S.  
26 612, 617 ( 1954). They also provide opportunity for arbitrary and discriminatory  
27 enforcement since those [416 U.S. 924 , 925] who apply the laws have no clear and  
28 explicit standards to guide them. **Coates v. Cincinnati**, 402 U.S. 611, 614 ( 1971);  
**Shuttlesworth v. Birmingham**, 382 U.S. 87 , 90-91, 15 L. Ed.2d 176 (1965) -  
<http://www.lawyerdude.8m.com/5089.html> (Includes photograph of Reverend Fred

1 Shuttlesworth). Further, when a vague statute "abut[s] upon sensitive areas of First  
2 Amendment freedoms,' it 'operates to inhibit the exercise of [those] freedoms.'  
3 Uncertain meanings inevitably lead citizens to 'steer far wider of the unlawful zone  
4 . . . than if the boundaries of the forbidden areas were clearly marked.'" - **Grayned**  
5 **v. City of Rockford**, 408 U.S. 104, 109 (1972), quoting **Baggett v. Bullitt**, 377  
6 U.S. 360, 372 [1964 loyalty oath case], and **Speiser v. Randall**, 357 U.S. 513, 526  
7 (1958)."

8 "Overbreadth, on the other hand, 'offends the constitutional principle that 'a governmental  
9 purpose to control or prevent activities constitutionally subject to state regulation may not  
10 be achieved by means which sweep unnecessarily broadly and thereby invade the area of  
11 protected freedoms.'" - **Zwickler v. Koota**, 389 U.S. 241, 250 (1967), quoting **NAACP v.**  
12 **Alabama**, 377 U.S. 288, 307 (1964).

13 A vague statute may be overbroad if its uncertain boundaries leave open the  
14 possibility of punishment for protected conduct and thus lead citizens to avoid such  
15 protected activity in order to steer clear of the uncertain proscriptions. **Grayned v. City of**  
16 **Rockford** supra, 408 U.S. at 109; **Dombrowski v. Pfister**, 380 U.S. 479, 486 (1965). A  
17 statute is also overbroad, however, if, even though it is clear and precise, it prohibits  
18 constitutionally protected conduct. **Aptheker v. Secretary of State**, 378 U.S. 500, 508-509  
19 (1964); **Shelton v. Tucker**, 364 U.S. 479, 488 (1960)."

20 **City of Mesquite v. Alladin's Castle, Inc.**, 455 U.S. 283 (1982):

21 " **Grayned v. City of Rockford**, 408 U.S. 104, 108 (emphasis [455 U.S. 283, 290] added)  
22 \*fn12... [ Footnote 12 ] The Court of Appeals summarized the relevant authorities as  
23 follows: "A law is void for vagueness if persons `of common intelligence must necessarily  
24 guess at its meaning and differ as to its application . . . .' **Smith v. Goguen**, 415 U.S. 566,  
25 572 n. 8, quoting *Connally v. General Construction Co.*, 269 U.S. 385, 391 . See generally  
26 Note, **The Void-for-Vagueness Doctrine in the Supreme Court**, 109 U. Pa. L. Rev. 67  
27 (1960). The offense to **due process** lies in both the nature and consequences of  
28 vagueness. First, vague laws do not give individuals fair notice of the conduct proscribed.  
29 **Papachristou v. City of Jacksonville**, 405 U.S. 156, 162 . Accord **Grayned v. City of**  
30 **Rockford**, 408 U.S. 104, 108 & n. 3. Second, vague laws do not limit the exercise of  
31 discretion by law enforcement officials; thus they engender the possibility of arbitrary and  
32 discriminatory enforcement. **Grayned v. City of Rockford**, 408 U.S. at 108-09 & n. 4  
33 <http://www.lawyerdude.net/firms.com/grayned.html> ; **Papachristou v. City of**  
34 **Jacksonville** (1971) <http://www.lawyerdude.net/firms.com/papachri.html> , 405 U.S. at  
35 168-70. Third, vague laws defeat the intrinsic promise of, and frustrate the essence of, a

1 constitutional regime. We remain `a government of laws, and not of men,' **Marbury v.**  
2 **Madison** (1803)  
3 <http://www.lawyerdude.net/firms.com/marbury.html> 5 U.S. (1 Cranch.) 137, 163, only so  
4 long as our laws remain clear." - 630 F.2d, at 1037."

4 **Proof of Service**

5 Today I served this motion upon the prosecutor in this case by personally delivering a copy  
6 to his receptionist at his office.

6 Signed \_\_\_\_\_ Forrest Bishop.