

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 00-MK-612 (OES)

NEW TIMES, INC., ASSOCIATION OF ALTERNATIVE NEWSWEEKLIES, DARK NIGHT PRESS, CLAY DOUGLAS, LARRY RICE, DORET KOLLERER, CHRISTINE DONNER, MAOIST INTERNATIONAL MOVEMENT, BARRIO DEFENSE COMMITTEE, ANTHONY LUCERO, MAXWELL THOMAS, DANIEL HERNANDEZ, ARTHUR MCCRAY, GEORGE MOORE, TRAVIS COLVIN, and MARTIN WILLIAMS,

Plaintiffs,

v.

JOHN SUTHERS, in his official capacity as EXECUTIVE DIRECTOR OF COLORADO DEPARTMENT OF CORRECTIONS,

Defendant.

REPORT OF ALEX ALONSO

I have been retained by Plaintiffs as an expert witness in this case. A copy of my curriculum vitae is attached as Exhibit A.

I. BACKGROUND

I was born in the Bronx, New York, and have spent significant time in the State of New York, State of New Jersey, State of California, and the Island of Puerto Rico. I am a resident of the County of Los Angeles and I make the following statements on the basis of my own personal knowledge after reviewing certain documents relating to this matter, including witness statements, and dozens of magazine pages.

I have conducted extensive study on the subject of street gangs, gang culture, gang conflict and rivalry, territoriality, graffiti interpretation, criminal and non-criminal activity of gang members and many more aspects of gang activity. I am also very knowledgeable of hip hop culture and I have lectured, appeared on television and radio discussing the aspects of hip hop, music, culture and gangs. Most of my studies are specific to the subject of Los Angeles County area gangs that has included ethnographic fieldwork on the subject of gangs in South Los Angeles, the San Fernando Valley, Long Beach, Pomona, Pacoima, East Los Angeles, and West Covina. Additionally I have done gang and ethnographic research in Phoenix, Arizona, Austin, Texas, Dallas, Texas, Fort Worth, Texas, Boston, Massachusetts, Honolulu, Hawaii, and Portland, Oregon in the United States. My gang research has also been done in San Juan, Puerto Rico, Manchester, England, Amsterdam, The Netherlands, and Barcelona, Spain.

I have testified as an expert and consulted on the subject of gangs in several cases including in Orange County v. [REDACTED], [REDACTED] and most recently in the State of California v. [REDACTED], 2002.

I have conducted academic studies in the area of sociology, anthropology, and most specifically urban and human geography and I have spoken at numerous academic conferences regarding gangs in Los Angeles during the last few years. I am a member of the American Sociological Association (ASA), Association of American Geographers (AAG) and American Society of Criminology (ASC). I have attended the California Gang Investigation Association's (CGIA) with an exhibit of my research. I have met with law enforcement officers in the Los Angeles Police Department and Los Angeles County Sheriff's Department about gangs and my research in Los Angeles.

I am currently a doctoral candidate at the University of Southern California in the Department of Geography. I have a Master of Arts degree in Geography, where I focused on the urban socio-geographic dynamics of gang territoriality, and where in 1999 I published a Master's Thesis entitled Territoriality Among African American Street Gangs in Los Angeles. My current research is entitled A Political Geography of Civil Abatement and Gang Injunction Strategies in Southern California where I will examine the history, geography and effectiveness of gang abatement. This research was just recently funded by the Ford Foundation.

My compensation for my work in this case is [REDACTED] for pretrial consultation and [REDACTED] for trial testimony.

II. GENERAL CONCLUSIONS

The Colorado Department of Corrections ("DOC") is confused over what is a gang sign and general hand signs used by non-gang members. I have examined a variety of music magazines which have been censored by the DOC, and it is my opinion that many if not all of the hand signs being interpreted by the DOC in VIBE, Rolling Stone and Source magazines as gang hand signs are, in fact, hand signs used by the general public and mainstream segments of society including the entertainment industry, athletes, fraternities and corporations, and do not in any way depict or advocate membership in security threat groups.

In my view, AR 300-26 is overly broad, subjective and vague. The regulation permits prison officials to censor any publication which is supposedly distributed by security threat groups or which advocates membership in security threat groups. There are no written guidelines that clarify this vagueness or that narrow the criteria in such a manner that provides sufficient guidance to DOC officials who make censorship decisions. This is evident from the DOC's pattern and practice of censorship of minority music magazines with respect to the security threat group issue.

As described in more detail below, the DOC has enforced this regulation by censoring many publications which contain common sign language symbols used

throughout the minority community, and are not produced or distributed by security threat groups, and which do not advocate or depict association or membership in security threat groups.

Since the vast majority of these publications do not contain gang symbols or advocate membership in gangs, there is no rational connection between the censorship of the publications and the DOC's penological interests. Moreover, the DOC's censorship of these publications on a security threat group basis is racially biased, since publications containing white individuals using hand signs are not similarly censored.

There are certainly obvious and easy alternatives to the DOC's exaggerated response to the DOC's legitimate concerns about security threat groups. The DOC could and should limit its censorship to materials which are known to be produced or distributed by specific security threat groups, or which do, in fact, advocate or depict membership in security threat groups. The DOC has clearly developed an exaggerated response to the security threat group issue by censoring virtually any hand sign used by a minority individual.

III. SPECIFIC OPINIONS

With regard to this case there are several points regarding the censorship of particular magazines that are believed to be representative of gang culture, specifically the flashing of hand signs as being gang related that I believe are erroneously derived. My conclusions are based on reviewing documents including the deposition of Richard Soares and Richard Patchen and an examination of several of the Offender Reading Material Evaluation Forms and that were provided to me that included pages of magazines of The Source, Rolling Stone, and VIBE.

It appears that the DOC and the reading committee members that examine the magazines and make the decisions to censor materials are not knowledgeable of the music industry, hip-hop culture, and gang culture. In many instances they have made incorrect decisions in censoring materials that appear to be confused as being gang related. For example there are several photos of well known celebrities including singers, actors and musicians that are in no way connected to gangs, but because they happen to be doing hand gestures when a photograph was taken, the reading committee incorrectly associates these gestures and I assume these artists as being gang related.

I have identified from the list of deposition exhibits in this case a variety of examples in which the DOC censored the publication, but where I believe that the materials are not produced or distributed by security threat groups, nor do they advocate or depict membership in security threat groups:

1. Exhibit 20 show three individuals in three different photos flashing hand signs. Page 123 shows rap artist Jay Z doing a peace sign, page 126 shows rap artist Juvenile from showing off his pinky ring by extending his finger. Page 68 of Exhibit 143 shows this same artist showing off his jewelry. Also on the same page from Exhibit 20

Jacob the Jeweler from New York is extending his index finger in the number one sign, because he is known as the number #1 jeweler.

2. Exhibit 38 claims that nine pages (50, 93, 120, 128, 129, 163, 164, 165, and 188) “all contain gang related materials.” After carefully examining all these pages I can confidently state that there are no gang related icons, representations, or images on these pages. Page 50 shows an ad for a clothing company called Rocawear with 3 photos and it appears that the review committee is claiming that one of the members in the photo is flashing a gang sign, but that model is not flashing a gang hand sign, rather he is just posing. Page 93 shows Big Daddy Kane, a popular rap artist from the late 1980s throwing a peace sign. Chris Rock, a Brooklyn born comedian that has his own show on HBO is shown on page 120 posing for the camera with his hand on his face. To interpret this photo or this pose as being gang related or to identify Chris Rock as a gang member would be completely inaccurate. Chris Rock has been a comedian for about 20 years appearing on several programs in the 1980s including Saturday Night Live and during the last several years he has appeared in several films with actors such as Danny Glover, Joe Pesci, and Wesley Snipes.

3. Page 128 and 129 of Exhibit 38 shows several rap artists from the South, including Juvenile who appears on several of the pages that are being censored. All four of the artists are doing gestures and hand signs referencing the jewelry they are wearing. The artist to the left (B.G.) is grabbing his neck chain, the two artists in the middle (Turk & Juvenile) are flashing their pinky fingers showing their rings, and their arms showing off their watches. The fourth person (Lil Wayne) to the far left of the photo is showing off his watch. The rap groups have no ties to any gangs or are their gestures gang related. None of the photos in this Exhibit have any gang references and they have all been incorrectly identified as gang related. The review committee appears to associate tattoos, hairstyle, and clothing worn by minority youth as being gang related without any other substantial information to make that determination.

4. Page 62 of Exhibit 135 shows artists Wyclef John, model and actor Shemar Moore, and rapper Bow Wow all doing hand gestures of which none are gang related nor are any of those person gang related or members of any security threat group. What I see often being confused for gang signs are when artists do the peace sign, the index and middle finger extended.

5. In Exhibit 136 on pages 114 and 150 rap artist Erick Sermon and Outkast members are doing the peace sign. This sign is not gang related nor are Erick Sermon and the Group Outkast gang members or members of any security threat group. It is very common for rap artists to flash the peace signs in photographs, it is a part of the culture.

6. In Exhibit 137 page 2 R&B singer Sisquo is seen doing a very popular sign that musicians flash. On page 3 Shaquille O’Neal is seen flashing the peace sign with a popular hip hop DJ named DJ Clue from New York. A popular R&B artist is also seen throwing a peace sign with Yankees shortstop Derek Jeter. None of these individuals are gang related nor are the signs gang related.

7. Exhibit 138 on page 62 shows a rap artist flashing the peace sign while sitting with R&B artists Carl Thomas.

8. Exhibit 139 contains 2 pages that have no reference to gang hand signs. The cover shows rapper Eminem and Dr. Dre. The evaluation form claims that there is an association with a security threat group in those two pages, but these assumptions are false. In fact, VH1 produced a documentary on Dr. Dre in 2000 that discussed how Dr. Dre grew up in a gang neighborhood, while his mother made sure that he was not affiliated with gangs. In that documentary Dr. Dre stated that his mother shielded him from gangs while he grew up in Compton. There is this general stereotype that if you are a black male from Compton, you must be in a gang. I know of no basis to conclude that Dr. Dre or Eminem are affiliated with any gang or security threat group.

9. Exhibit 140 shows rapper Jay Z doing the peace sign and various other artists doing hand signs that have no relationship to gangs or security threat groups.

10. Exhibit 143 identifies pages 68, 77, and 92 as gang related. There is no basis to conclude that any of these three photos are gang related. Two of the photos are actually clothing ads that have hired models for the photo shoot. The photo on page 68 show 5 members of a New Orleans based rap company called Cash Money Productions and the gestures and hand signs that they are doing are poses for the photographer to show off their jewelry. The three men in the front are showing off their watches, bracelets, and diamond rings. The tattoos that are seen on their arms are not gang related either.

11. Exhibit 146 contains two pages that were prohibited, one showing rapper and actor LL Cool J pointing to the microphone that is wrapped around his upper body. The reviewer of this magazine has clearly mistaken this artist for being gang related based on his hand gesture. This artist is actually known by his own hand sign depicting the letter "L," short for his name. The second page shows music producer Dr. Dre doing absolutely nothing indicative of a gang or security threat group. A similar photo of Dr. Dre from Exhibit 139, was also censored for no apparent reason. There were no hand signs or any gang references, but it appears that both of the evaluation forms were signed by the same person (N. C.?) on the same date (September 5, 2000) and that Dr. Dre is being incorrectly identified as a gang member.

12. In Exhibit 148 there are three pages (cover, 27, 98) that are being censored for the use of hand signs, but the artists are throwing up the very popular salute that many musicians has been using for years.

13. Exhibit 145 claims that there was a gang sign in a photo and a gang related article. After a close examination I found neither. There was a short discussion of the shooting deaths of Notorious BIG and rapper Tupac Shakur, but the article was about cars and nothing about gangs and the photos did not show anything gang related. The bullet riddled door of Notorious BIG's car was shown in a photo that turns out, through several investigations, was shot by an off duty LAPD officer (see Frontline Documentary LAPD Blues).

Most, if not all of these photos depict racial minorities in various poses that are being incorrectly interpreted as being gang related. Additionally, none of the evaluation forms that I have reviewed ever identified what security threat group or specific gang was being censored. Many of the artists in these magazines would be surprised and offended in they were being associated as being gang related.

Comedians such as Chris Rock and rappers such as Big Daddy Kane, Outcast, Juvenile, Master P, LL Cool J, and many others have never claimed any affiliation to any gang and would be highly offended if they were associated as gang members. I know this to be true from knowing the music that these artists produce, understanding their lyrics, and knowing their philosophies through viewing interviews and from my own personal experience. I have discussed the topic of hip-hop and gangs on radio and television and have personally dealt with rappers Mack 10, Ice Tea, and WC, all of which have no membership with gangs but they have been given the label as gangster rapper.

Many of the censored photos include models, television and film actors, and R&B singers. Many of the rappers that are being censored are rappers from the South, Mid West, and the East Coast, and many of the rappers have hand signs to represent where they are from. For example the most misunderstood hand sign is when California artists flash the “W” hand sign that means Westside or California. Although many people from California flash the “W” it is most often associated as a gang sign, but anyone who claims that the “W” is a gang sign could not tell you what gang it represents, because it does not represent a gang. Similar to how Venus Williams, the tennis pro, flashed a “C” in the milk ad to denote where she is from, those that flash the “W” are revealing their proud association with California. It has also come to mean west in other contexts, such as when comedian Ali G from England uses it to represent the West End of Staines.

Mack 10 is known for using the “W” and the DOC not only censored a photo of him flashing the “W” but in a same Exhibit they censored a photo of him in a “regular” headshot photo of him. They did the same for a regular photo of “Ice T” in the same Exhibit.

The use of hand signs as seen by many music artists are not new and have been a part of culture since ancient Hebrew and Egyptian time but there is not much academic literature on the subject on contemporary use of hand signs in society. Some of the recent work on that is listed below.

Cousins, Susan B. and Persellin, Diane C. The Effect of Curwen Hand Signs on Vocal Accuracy of Young Children. *Texas Music Education Research*. 1999 (pp. 17-20).

Eunjung Holden. *Recognition of Hand-Sign Motion Signals*. PhD Thesis, The University of Western Australia, 1997.

Eunjung Holden, Geoffrey G. Roy, and Robyn Owens. Hand movement classification using an adaptive fuzzy expert system. *The International Journal of Expert Systems, Research and Applications*, Vol 9, Number 4, 465-480, 1996.

Eunjung Holden, Geoffrey G. Roy, and Robyn Owens. Adaptive classification of hand movement. *Proceedings of the International Conference on Neural Networks*, Volume 3. 1373-1378, 1995.

Martin, B. A. (1991). Effects of hand signs, syllables, and letters on first graders' acquisition of tonal skills. *Journal of Research in Music Education*, 39, 161-170.

Murray, Annette, *Some Aboriginal Hand Signs*, Bamyili Press, 1980

Janice Swickard wrote an article for Kansas State University paper entitled, Fraternity's hand signs create controversy on May 1, 1995 in which a Hispanic fraternity was being accused of using gang hand signs in a photo that was published by the K-State Fraternity Experience. Ian Bautista, graduate student in regional community planning at the time and member of Sigma Lambda Beta, a Hispanic fraternity, was forced to address these concerns and said the hand symbols were in no way gang-related. "Our fraternity has a sign that we give as a form of symbolism," he said. "Our hand sign is a fraternity sign and not a gang sign." The claim, according to Bautista came from someone who didn't know much about the Greek system. And this ignorance with hand signs and gang signs seems to be the same issue being faced by the Colorado Department of Corrections. They see minority youth flashing hand signs and the first thing that one thinks is that they must be gang members, without any knowledge of alternative meanings and other sub cultural use of hand signs. Bautista continued to state that, "It is obvious that the person who wrote this is speaking from prejudice and ignorance."

At the University of Houston the use of hand signs by proud Cougars has never been called into question as being gang related or having some shady meaning. In fact, Jim Parsons wrote an article in the campus paper entitled Contrary to popular belief, traditions alive and well at the University of Houston where the author discusses all the bizarre and wacky college traditions such as the at the University of Maryland at College Park where they have been rubbing the nose of a statue of Testudo, the university's diamondback terrapin mascot, for good luck since 1933. At the University of Houston the Cougar hand sign, for example is a staple of school spirit that has been around since 1953. Shasta I, the school's live cougar mascot, was carried to Austin to watch the game. Unfortunately, on the way to the game, Shasta's foot was caught in a door and one of her toes was cut off. When the Longhorn fans learned about that misfortune, they began taunting the Cougar fans by holding up their hands with the ring finger bent - indicating that the mascot, and the team, were invalids. UH went on to lose that game 28 to 7. However, UH fans adopted the taunting hand sign to signify that they'd never let UT forget the incident. The Texas Longhorns are also known for their hand sign representing the horns of a bull. This sign used by mainstream university students and faculty has never been misidentified as being gang related.

I have attached as Exhibit B to this report a series of drawings and pictures depicting various hand gestures, some of which are associated with gangs and security threat groups, and some of which are clearly not. It is obvious in comparing these materials to the materials censored by the DOC that the DOC has no basis to conclude

that the hand gestures in the censored publications are distributed by security threat groups or advocate membership in security threat groups.

I understand that discovery is still being conducted and I reserve the right to update my report based on additional materials that may be provided to me from discovery.

Alex A. Alonso