

ORIGINAL

FILED

1 Charles Nichols
2 PO Box 1302
3 Redondo Beach, CA 90278
4 Voice: (424) 634-7381
5 E-Mail: CharlesNichols@Pykrete.info
6 In Pro Per
7

2013 APR 10 PM 2:44

U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES

8 **United States District Court**
9 **Central District of California**
10

11 Charles Nichols,
12 PLAINTIFF,
13 vs.
14 KAMALA D. HARRIS, Attorney
15 General, in her official capacity as
16 Attorney General of California, CITY
17 OF REDONDO BEACH and DOES 1
18 to 10,
19 Defendants.
20

Case No.: CV-11-9916 SJO (SS)

DECLARATION OF CHARLES
NICHOLS IN SUPPORT OF
PLAINTIFF'S MOTION FOR A
PRELIMINARY INJUNCTION

Date: May 20, 2013

Time: 10:00 a.m.

Location: United States Courthouse

312 North Spring Street

Los Angeles, CA 90012-4701

Courtroom: 1 - 2nd Floor

Judge: Samuel James Otero

Date Action Filed: November 30, 2011

DECLARATION OF CHARLES NICHOLS

I, Charles Nichols, submit this declaration in support of Plaintiff's Motion for a Preliminary Injunction. I make this declaration of my own personal knowledge and if called as a witness I could and would testify competently to the truth of the matters set forth herein.

1. I am a resident of Los Angeles County and a natural born citizen of the United States and I am fifty-three years of age.

2. I am not prohibited under Federal or California law from receiving or possessing firearms.

3. I have violated the laws at issue in the past and have articulated a concrete plan to violate them in the future.

4. I am presently being prosecuted for openly carrying a firearm in violation of a City of Redondo Beach municipal ordinance even though I was openly carrying the firearm in the beach zone of the city which is exempt from the ordinance (all coastal parklands are exempt by the city's own municipal ordinances) and despite the findings of Magistrate Judge Suzanne Segal and Federal District Court Judge Samuel James Otero that the State of California had preempted local regulations concerning the carrying of firearms. According to the City Attorney whose City Prosecutor reports to him, the city's ban applies to all weapons in all public places of the city.

5. On October 24, 2012 California Superior Court judge David Sotelo denied my demurrer to the criminal charge stating "Given the uniqueness of the

1 City of Redondo Beach as (sic) beach community immediately west of cities such
2 as Los Angeles, Compton and Carson, its' (sic) parks on the Pacific Ocean
3 shoreline draw visitors not just (sic) these cities but every county, city and
4 neighborhood."

5
6 6. The black population of the City of Redondo Beach is 2.8%. Only
7 25.9% of Compton is white. Only 23.8% of Carson is white. The portions of the
8 City of Los Angeles immediate east of Redondo Beach are similarly predominantly
9 minority. The Cities of Torrance and Lomita which were not mentioned by judge
10 Sotelo are also immediately to the east of the City of Redondo Beach. Torrance
11 has a black population of 2.7%. Lomita has a black population of 5.3%. These
12 figures were obtained from the U.S. Census website reflecting the 2010 Census.
13

14 7. On May 21, 2011 I was stopped against my will by Redondo Beach
15 police officers who took my long gun against my clear and vocal refusal to consent
16 to the search. Redondo Beach Police Officer Todd Heywood performed a
17 "chamber check" to see if the firearm was unloaded pursuant to California Penal
18 Code section 25850 and then subsequently confiscated my firearm, carrying case,
19 padlock and key thereby depriving me of my only means of self-defense even
20 though the City of Redondo Beach has been aware since at least December 6, 2011
21 that I have a documented death threat against me. The unloaded firearm was also
22 seized during the course of a peaceful protest. The protest was coordinated with
23 the Redondo Beach City Attorney and Police Chief in advance.
24

25 8. I sustained a severe back injury in a riding accident in August of 2002
26 leaving me partially disabled. I am not physically able to defend myself other than
27 with a firearm. Current California law prevents me from openly carrying a firearm
28

1 in case of confrontation for the purpose of self-defense. This includes self-defense
2 with a less-lethal Taser which California defines as a "firearm."

3
4 9. This leaves under California law the only means of self-defense; a
5 knife openly carried. However, some California cities such as the City of Redondo
6 Beach and the City of Los Angeles have made it a crime to openly carry a knife
7 which leaves me completely defenseless in those communities even if I were
8 physically able to defend myself with a knife.

9
10 10. California law prohibits the issuance of licenses to openly carry a
11 handgun to counties with a population of fewer than 200,000 people. These
12 licenses are only theoretically available to residents of those counties and are only
13 valid within the county within which they are issued.

14
15 11. I asked for an application and license to openly carry a loaded
16 handgun from the Redondo Beach police chief who denied my request citing
17 California Penal Code section 26155 through his then attorney, the City Attorney
18 for Redondo Beach.

19
20 12. My public defender has stated in open court that he cannot provide me
21 with a competent defense. The presiding judge, "Chet" Taylor did not replace my
22 public defender.

23
24 13. The only motion to dismiss the criminal case against me filed by my
25 public defender referenced but a single sentence from Assembly Bill 1527, a 15
26 page bill which made it a crime to openly carry an unloaded long gun in
27 incorporated cities. The motion is based on state preemption.

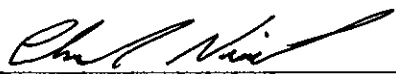
1 14. The sections of the California Penal code alone regulating the
2 possession, use and carrying of weapons is over 200 pages long. Given that the
3 municipal ordinance I am being charged with violating bans all weapons, a proper
4 preemption motion would have been significantly longer.

5
6 15. My public defender has thus far refused to file a motion based on the
7 First and Second Amendments to the US Constitution saying that he and his office
8 (the Los Angeles County Public Defenders Office) does not believe that the
9 Second Amendment is a fundamental right despite the U.S. Supreme Court,
10 Federal Courts and California's own state courts saying that the Second
11 Amendment is a fundamental right. And despite the fact that prior to the Heller
12 decision, the California Supreme court had recognized the carrying of firearms as a
13 fundamental right, albeit one subject to rational review, since 1924.

14
15 16. My own personal experience has proven that California police,
16 prosecutors and judges do not obey their own laws. I cannot receive a fair trial.
17 My only recourse is through the Federal courts.

18
19 17. To the best of my knowledge, the exhibits are true and correct.

20 Executed in the United States on April 8, 2013,
21

22
23 
24 By: Charles Nichols
25 PLAINTIFF in Pro Per
26 PO Box 1302
27 Redondo Beach, CA 90278
28 Voice: (424) 634-7381
E-Mail:
CharlesNichols@Pykrete.info

///

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of **DECLARATION OF CHARLES NICHOLS IN SUPPORT OF PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION** was served via United States Mail, postage prepaid, on this 9, day of April, 2013; on the following:

KAMALA D. HARRIS
Attorney General of California
PETER K. SOUTHWORTH
Supervising Deputy Attorney General
JONATHAN M. EISENBERG
Deputy Attorney General
State Bar No. 184162
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
Attorneys for Defendant California Attorney General Kamala Harris

AND

T. PETER PIERCE
LISA BOND
AARON C. O'DELL
RICHARDS WATSON & GERSHON
A Professional Corporation
355 South Grand Avenue, 40th Floor
Los Angeles, California 90071-3101
Attorney for Defendants:
CITY OF REDONDO BEACH and DOES 1 to 10



Charles Nichols
Plaintiff, In Pro Per
Case No. CV-11-9916 SJO (SS)