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Department 56

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES (CENTRAL DISTRICT)

PEOPLE OF THE STATE OF CALIFORNIA,
ex rel. Rockard J. Delgadillo as the
City Attorney for the City of Los Angeles,

Plaintiff,

vs.

38TH STREET, an unincorporated association;
DOES 1 through 500, inclusive,

Defendants.

Case No. BC319166

~~PROPOSED~~
JUDGMENT GRANTING
PERMANENT INJUNCTION

Assigned for all purposes to the
Honorable Jane Johnson

DATE: N/A
TIME: N/A
PLACE: Dept 56
111 North Hill Street
Los Angeles, CA 90012

TRIAL DATE: Not Set
CASE FILED: July 28, 2004

Plaintiff, the People of the State of California, *ex rel.* Rockard J. Delgadillo as the City Attorney for the City of Los Angeles, filed a complaint on July 28, 2004, seeking to abate a public nuisance through the use of what is commonly known as a "gang injunction," against defendant 38th Street Gang ("38th Street"), an unincorporated association alleged to be a criminal street gang, in a "Safety Zone" (as depicted in the map included as page 7 and incorporated herein) within the City of Los Angeles which is defined by the area bounded by Washington Boulevard to the north; Alameda Street to the east, Slauson Avenue to the south, and San Pedro Street to the west.; plaintiff subsequently voluntary dismissed without prejudice all fictitious "Doe" defendants; default was duly

1 entered against defendant 38th Street; after due consideration of all papers filed in this action,
2 including the declarations, requests for judicial notice, and other evidence submitted, plaintiff's
3 memorandum of points and authorities including *People v. ex rel. Gallo v. Acuna*, 14 Cal. 4th 1090,
4 *cert. denied*, 521 U.S. 1121 (1997); *People v. Englebrecht*, 88 Cal. App. 4th 1236 (2001); *In re*
5 *Englebrecht*, 67 Cal. App. 4th 486 (1998), this Court finds by clear and convincing evidence that
6 service is proper under the circumstances and that (1) 38th Street is a criminal street gang as defined
7 in Penal Code section 186.22 (Street Terrorism Prevention and Enforcement ("STEP") Act) and is a
8 gang as defined for the purpose of a gang abatement injunction in *People v. Englebrecht*, 88 Cal.
9 App. 4th 1236,1258 (2001); and (2) the conduct and activities of defendant 38th Street and its
10 members constitute a public nuisance in the Safety Zone; and good cause appearing for entry of
11 judgment,

12 **IT IS ORDERED, ADJUDGED AND DECREED** that:

13 1. Defendant 38th Street, its members, agents, servants, employees, and all persons acting
14 under, in concert with, for the benefit of, at the direction of, or in association with them or any of
15 them, are enjoined and restrained from engaging in or performing directly or indirectly, any of the
16 following activities in the Safety Zone:

17 a. **Do Not Associate:** Driving, standing, sitting, walking, gathering or
18 appearing, anywhere in public view or anyplace accessible to the public, with any known member of
19 38th Street, but not including: (1) when all individuals are inside a school attending class or on
20 school business, (2) when all individuals are inside a church; provided however that this prohibition
21 against associating shall apply to all claims of travel to or from any of those locations, and (3) when
22 all individuals are inside A Place Called Home ("APCH") located at 2830 South Central Avenue,
23 Los Angeles, California, and are enrolling in or are enrolled in and attending a youth development,
24 workforce development, or gang intervention program established by APCH; provided however that
25 this prohibition against associating shall apply to all claims of travel to or from any of those
26 locations;

27 b. **No Intimidation:** Confronting, intimidating, annoying, harassing,
28 threatening, challenging, provoking, assaulting or battering any person known to be a witness to any

1 activity of 38th Street, known to be a victim of any activity of 38th Street, or known to be a person
2 who has complained about any activity of 38th Street;

3 c. **No Firearms, Imitation Firearms, or Dangerous Weapons:** Anywhere in
4 public view or anyplace accessible to the public, (1) possessing any firearm, imitation firearm,
5 ammunition, or illegal weapon as defined in Penal Code section 12020, (2) knowingly remaining in
6 the presence of anyone who is in possession of such firearm, imitation firearm, ammunition or
7 dangerous weapon, or (3) knowingly remaining in the presence of such firearm, imitation firearm,
8 ammunition or dangerous weapon. For purposes of this provision, an imitation firearm means a
9 replica of a firearm that is so substantially similar in physical properties to an existing firearm as to
10 lead a reasonable person to conclude that the replica is a firearm;

11 d. **Stay Away From Drugs:** Without a prescription, (1) selling, possessing, or
12 using any controlled substance or related paraphernalia, including but not limited to rolling papers
13 and pipes used for illegal drug use, (2) knowingly remaining in the presence of anyone selling,
14 possessing, or using any controlled substance or such related paraphernalia, or (3) knowingly
15 remaining in the presence of any controlled substance or such related paraphernalia;

16 e. **No Open Containers of Alcohol:** Anywhere in public view or anyplace
17 accessible to the public, except on properly licensed premises, (1) possessing an open container of an
18 alcoholic beverage, (2) knowingly remaining in the presence of anyone possessing an open container
19 of an alcoholic beverage, or (3) knowingly remaining in the presence of an open container of an
20 alcoholic beverage;

21 f. **No Trespassing:** Being present on or in any property not open to the general
22 public, except (1) with the prior written consent of the owner, owner's agent, or the person in lawful
23 possession of the property, or (2) in the presence of and with the voluntary consent of the owner,
24 owner's agent, or the person in lawful possession of the property;

25 g. **No Trespassing at the Alameda Swap Meet market place -** Being present
26 on or in the Alameda Swap Meet market place except (1) with the prior written consent of the owner
27 or owner's agent or (2) in the presence of and with the voluntary consent of the owner or owner's
28 agent. For purposes of this provision, (1) the Alameda Swap Meet market place includes the

1 properties, sidewalks, and adjacent parking lots at the addresses of 4433 South Alameda Street and
2 4501 South Alameda Street. It also includes any parking lots (and adjoining sidewalks) across the
3 street from the Alameda Swap Meet market place that are designated for Alameda Swap Meet
4 market place parking; (2) the owner's agent does not include tenants of the Alameda Swap Meet
5 market place; and (3) the prior written consent must be carried on the person at the time the person
6 visits the Alameda Swap Meet market place and presented when requested by any peace officer or
7 security guard;

8 h. **Obey Curfew:** Being outside between the hours of 10:00 p.m. on any day
9 and sunrise of the following day, unless (1) going to or from a gang intervention program, job,
10 school, or non-gang-related entertainment activity, (2) actively engaged in some business, trade,
11 profession, occupation, or political activity which requires such presence, or (3) involved in a
12 legitimate emergency situation that requires immediate attention;

13 i. **No Graffiti or Graffiti Tools:** Damaging, defacing, or marking any public
14 property or private property of another, or possessing any spray paint container or felt tip marker;
15 and

16 j. **Obey All Laws:** Failing to obey all laws (1) which prohibit violence and
17 threatened violence including murder, rape, robbery by force or fear, assault and battery, (2) which
18 prohibit interference with the property rights of others including trespass, theft, driving or taking a
19 vehicle without the owner's consent, and vandalism, or (3) which prohibit the commission of acts
20 which create a nuisance including the illegal sale of controlled substances and blocking the sidewalk;

21 2. **Renunciation Provision:** Any 38th Street gang member or any person who has
22 been served with this injunction (hereinafter "applicant") may move this court under this provision
23 for an order that this judgement is not enforceable against him/her.

24 a. **Requirements:** Plaintiff agrees not to object to an applicant's motion to be
25 excluded from this judgement, so long as the exclusion is to be without prejudice and with each side
26 to bear its own costs and fees, and so long as the motion satisfies the following requirements:

27 i. **Proper Notice:** A motion under this provision shall be made on proper
28 notice properly served on plaintiff's counsel, and shall not be made on shortened time;

1 ii. Public Renunciation: Applicant must declare that he/she is not or is no
2 longer a gang member, and that he/she has renounced the gang life. Renunciation is an essential part
3 of this provision.

4 iii. Proof of Renunciation: The applicant must truthfully declare under
5 penalty of perjury that, for the continuous period of three (3) years preceeding the date of the
6 renunciation, with the starting date being no earlier than the date of this judgment, and not including
7 any time spent incarcerated, any time on supervised release (parole or probation), and/or any time
8 spent outside the country after having been deported, all of the following are and have been true:

- 9 A. Applicant has not claimed membership in any gang;
- 10 B. Applicant has not associated with any gang members, other
11 than immediate family members;
- 12 C. Applicant has not obtained any new gang-related tattoos and/or
13 used, owned, or possessed any gang related paraphernalia;
- 14 D. Applicant has not been arrested for, committed or assisted in
15 the commission of any felony or misdemeanor crime.
- 16 E. Applicant has in the 18 months prior to his/her renunciation
17 consistently (1) been gainfully employed and/or (2) attended an
18 educational institution and made consistent progress toward an
19 educational goal that qualifies him/her for a job, career, or a
20 higher level of education. Applicant must provide sufficient
21 documentation showing his employment and/or educational
22 attendance.

23 iv. No Third-Party Beneficiaries: It shall not be a defense to any civil or
24 criminal contempt charge that the applicant was eligible to apply for this Renunciation provision.

25 b. No Effect in Other Proceedings: This provision and any orders from it shall
26 not be admissible in any civil or criminal action, and cannot be used for or against an applicant for
27 any purpose whatsoever, other than in a civil or criminal contempt proceeding brought for violation
28 of this judgment.

1 c. Renounced Applicant Committing New Violation: If anyone who has
2 successfully received an order under this provision violates any of subsections A through D of
3 (2)(a)(iii) above (by claiming membership in a gang, associating with known gang members other
4 than immediate family, obtaining any gang-related tattoos, possessing any gang paraphernalia, or
5 being arrested for, committing, or assisting in the commission of any felony or misdemeanor crime),
6 then the applicant may be re-served with the injunction Order and the same terms and conditions will
7 apply.

8 3. **No Costs** Plaintiff waived costs. Each party shall bear its own costs in this action.

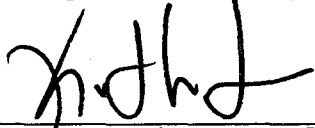
9
10 DATED: NOV 22 2004

JANE L. JOHNSON

Judge of the Superior Court

11
12 Submitted on October 7, 2004 by

13 ROCKARD J. DELGADILLO, Los Angeles City Attorney
14 Martin Vranicar, Ass't City Atty, Supervisor, Gang Unit
15 Kurt Knecht, Deputy City Attorney
200 North Main Street, 800 City Hall East
16 Los Angeles, California (213) 978-4086

17 
18 By: Kurt Knecht, Deputy City Attorney
19 Attorneys for Plaintiff,
20 People of the State of California

21
22 THE DOCUMENT TO WHICH THIS CERTIFICATE IS
23 ATTACHED IS A FULL, TRUE, AND CORRECT COPY
OF THE ORIGINAL ON FILE AND OF RECORD IN
MY OFFICE.

24 ATTEST NOV 22 2004
25 John A. Clarke
County Clerk / Executive Officer of the
Superior Court of California, County of
Los Angeles.

26 BY C. Wright, DEPUTY

