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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
EUGENE DIVISION

**UNITED STATES OF AMERICA,**

Plaintiff,

v.

**FLORENCE E. SEMPLE,**

Defendant.

CVB NO. 3127856

**DECLARATION OF MARY E.  
BROADHURST IN SUPPORT OF  
DEFENDANT'S MOTION TO DISMISS**

I, Mary E. Broadhurst, hereby declare as follows:

1. I am an attorney in good standing in the State of Oregon. I have also been highly involved with Occupy Eugene (hereinafter "OE"), including during the relevant time periods pertaining to this case.
2. I make this declaration on the basis of personal knowledge and am competent to testify to the matters asserted herein. The statements herein are true to the best of my knowledge and belief. I understand that I make this document for use as evidence in court, subject to penalties for perjury.
3. I make this declaration in support of Defendant's Motion to Dismiss.

4. On May 1, 2012, I was present at the old federal court house plaza, at the corner of 7<sup>th</sup> and Pearl Streets, Eugene, OR, with 20-25 other activists involved with Occupy Eugene. A tent was being set up by some and others were holding signs and demonstrating, intending to raise awareness and gaining publicity for Occupy and the issues relevant to the Occupy Movement. I was speaking with Michael Carrigan and Jean Stacey, also of OE, when Federal Protective Service Officer Thomas Keedy approached the three of us asking for information as to our presence on the plaza. He welcomed us and informed us that we were welcome to stay as long as we wanted, though no one could sleep in a tent that was set up, and no one could sleep on the plaza. We assured him that no one planned to sleep in the tent that it was merely a prop. He invited us to file a request for a permit and told us that he would personally recommend approval of a permit which allowed an awning type structure to keep people out of the rain. He indicated that we could remain on site overnight but that we could not sleep in tents. That permit, for the stated purpose of a "1<sup>st</sup> Amendment Demonstration" was granted for 24 hour occupancy for a period of 60 days.

5. I contacted Officer Thomas Keedy on June 6, 2012, to inquire about getting a permit to allow for amplification and use of electricity for an event Occupy Eugene was planning on the plaza for June 16th. He gave me the name and number of Mr. Anderson at the GSA and informed me that the rules for permits had been changed by the GSA due to the fact that the GSA had bad experiences with other Occupy groups in other areas. He confirmed that there had been no problems with Occupy Eugene's use of the plaza to date. This phone conversation occurred after Occupy had been informed that we needed to apply for a new 30 day permit as someone from the GSA believed the original permit was only for 30 days, and that if it was for longer than thirty days it was granted in error. I was aware of this at the time of the conversation with Officer Thomas Keedy and it was in that context that he revealed that the GSA no longer

allowed any 24 hour activities because of “bad experiences with other Occupy groups in other areas.”

6. After that conversation I became aware that Terrill Pervis, the original permit holder, was back in town and would proceed with the attempt to obtain electricity for the June 16<sup>th</sup> event and further discussions with the GSA regarding the permit.

7. To my recollection, the next communication I had on the permit issue, other than those with Occupy and/or its counsel, was with Mr. Chaun Benjamin, Regional Director, Service Centers Division, GSA, on June 29, 2012 who arranged for a conference call with GSA’s counsel’s Leah Wright later that same day. At this time I was aware that an application had been filed on June 27, 2012, by Peter Grotticelli on behalf of Occupy, Ex. 1, and that the “revised” application he received from the GSA indicated the public would only be entitled to exercise speech on the plaza from 8:00 am to 5:00 pm. During the call with Mr. Benjamin and Ms. Wright, the GSA offered new terms of 7am to 10pm. I pointed out that I did not believe Occupy needed a permit at all, that some with Occupy wanted to cooperate with the GSA but not if it meant foregoing the Constitutional right to protest which did not terminate at a certain time of day. I pointed out that ultimately it was a decision for Occupy Eugene’s General Assembly.

8. Following that conversation, I received an email from Mr. Benjamin outlining parts of the conversation. See, Exhibit 2, p. 4. I followed up with an email noting the General Assembly occurring that night and clarifying our discussion about the terms of the permit, specifically noting that Occupy agreed to the terms contained within our existing May permit, other than the timelines, as they had been applied to date. See Ex. 2, pp. 3-4.

9. On June 30, 2012 I followed up with an email to both Mr. Benjamin and Ms. Wright that Occupy’s position was that a permit was not necessary and that Occupy was unwilling to agree

to a permit if it meant giving up Constitutional rights as Occupy did not believe its rights ceased between the hours of 10pm and 7am, except for compelling reasons. See Ex. 2, p. 3.

10. A few emails were exchanged about the expiration date of the existing permit. In an email on July 1, 2012, I emailed Mr. Benjamin and noted that Occupy and the Civil Liberties Defense Center welcomed a test case regarding constitutional rights to protest but that Occupy had a strong interest in ensuring that if there were to be arrests that everyone involved, Occupiers and law enforcement, were to be treated with respect and that there be no physical injuries. Ex. 2, p. 2. To further that, I requested clear communication on what Occupy could expect, ahead of time, if arrests were to be made. Ex. 2, pp 1-2.

11. On that same day Mr. Benjamin notified me that the GSA would be formalizing a response to the submitted permit and that he anticipated it would be denied. He also confirmed that communication will continue regarding future steps should Occupy remain without a permit. See Ex. 2, p. 1.

12. Later that same day, July 1, 2012, I notified Mr. Benjamin that Occupy had decided to remain without a permit. Mr. Benjamin again assured me that GSA would communicate prior to the next steps. Id.

13. On or about July 9, 2012, I received a copy of a letter from Mr. Benjamin denying Occupy Eugene's permit application. Ex. 3. The denial was based upon the fact that we submitted the permit application in the same form, and with the same conditions as had been granted to us in May. These conditions included that no one would sleep at the site, and that we would be permitted to continue our 24 hour vigil drawing attention to the plight of people who did not have a legal place to sleep at night, and thus had to remain awake and wandering the streets. Although nothing had changed between Occupy Eugene and the local law enforcement and GSA staff, apparently the out of state GSA staff had determined that our rights to protest were denied.

14. The next day, July 10<sup>th</sup>, Mr. Benjamin appeared at the Plaza and tendered a letter indicating that if we did not leave the Plaza by 3pm on July 11th, we would be arrested. Ex. 4.

15. On, July 11, 2012, at approximately 5pm, Mr. Benjamin and Officer Keedy appeared at the Plaza and ordered everyone to leave or be arrested. There were many citizens that were not OE members, but had shown up in support of our exercise of constitutional rights and were outraged that citizens were being denied the right to protest at the Plaza. After several minutes, the crowd reluctantly agreed to leave the Plaza to avoid arrest. One Occupy member, Florence Semple, remained sitting in a lawn chair holding a sign in protest of her eviscerated rights.

16. On July 11<sup>th</sup>, following the arrest of Florence Semple, I observed Ms. Semple and others, including Officer Thomas Keedy, walking up the sidewalk following Ms. Semple's release from custody. In a conversation with Officer Thomas Keedy at that time, he offered that there had not been any public safety concerns at all with Occupy Eugene's presence on the plaza. He acknowledged that a paint incident was not Occupy Eugene's responsibility but rather the work of another individual not connected with Occupy Eugene.

17. On July 13, 2012, I filed an appeal of the July 9, 2012 denial of our permit application.  
Ex. 5

18. On July 23, 2012, the GSA's acting regional commissioner denied our appeal. Ex. 6.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Respectfully submitted October 1, 2012.

  
MARY E. BROADHURST