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10 State of California

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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF ALAMEDA**
14 **(UNLIMITED JURISDICTION)**

15 THE PEOPLE OF THE STATE OF
16 CALIFORNIA ex rel John A. Russo, City
17 Attorney for the City of Oakland,

18 Plaintiff,
19 v.

20 NORTH SIDE OAKLAND, a criminal street
21 gang sued as an unincorporated
22 association, and DOE ONE through DOE
23 SEVENTY, inclusive,

24 Defendants.

Case No. RG10498901

**ASSIGNED FOR ALL PURPOSES
TO JUDGE ROBERT B. FREEDMAN -
DEPARTMENT 20**

**[Proposed] Order Granting Preliminary
Injunction Against The North Side
Oakland Criminal Street Gang**

**Date: May 27, 2010
Time: 2:00 p.m.
Place: Department One**

**Action Filed: 2/18/10
Trial Date: none**

25 Plaintiff, the People of the State of California, applied for an order to show cause
26 ("OSC") why a preliminary injunction should not issue against defendant North Side
Oakland ("NSO or gang"), a criminal street gang and unincorporated association, and
against all members of the defendant as defined by law. The injunction is intended to
protect the safety of the general community by abating the public nuisance caused by the

1 gang and its members in a Safety Zone located in the City of Oakland. The Safety Zone is
2 defined geographically and a map of said zone is included at the end of this Order.

3 This Court issued the OSC and upon its return, scheduled a hearing on the
4 preliminary injunction for April 22, 2010. The Court continued the hearing to May 27,
5 2010. After due consideration of all papers filed in this action, including the declarations
6 and other evidence submitted, People's memorandum of points and authorities citing
7 *People v. Acuna* (1997) 14 Cal. 4th 1090, *cert, denied*, 521 U.S. 1121; *People v. Colonia*
8 *Chiques* (2007) 156 Cal. App. 4th 31; *People v. Englebrecht* (2001) 88 Cal. App. 4th 1236;
9 *In re Englebrecht* (1998) 67 Cal. App. 4th 486, the oppositions and briefs filed, and after
10 hearing the argument of counsel, this Court finds by clear and convincing evidence as
11 follows:

12 (a) Defendant North Side Oakland ("NSO") gang is a legal entity subject to suit and
13 was sued by the People as an "unincorporated association" as defined in Code of Civil
14 Procedure section 369.5 and relevant case law. Defendant NSO gang was properly
15 served pursuant to the terms of the order issued by this Court on March 3, 2010.

16 (b) Defendant North Side Oakland gang constitutes a criminal street gang as
17 defined in Penal Code section 186.22 (the Street Terrorism Enforcement and Prevention
18 "STEP" Act) and the prevailing law; defendant constitutes a gang for the purpose of a
19 gang abatement injunction, per the authority of *People v. Englebrecht* (2001) 88 Cal. App.
20 4th 1236,1258;

21 (c) The actions of Defendant North Side Oakland gang, of those members through
22 whom the NSO gang acts, and of the individual defendants named in this action and this
23 Order, individually and collectively, have caused a public nuisance in the area defined in
24 this Order as the Safety Zone, pursuant to California Civil Code Sections 3479, 3480 and
25 relevant case law. Accordingly, the People are entitled to injunctive relief to abate said
26 nuisance activities.

1 **GOOD CAUSE HAVING BEEN SHOWN, IT IS HEREBY ORDERED:**

2 1. Defendant North Side Oakland gang, all active gang members of said gang,
3 and those who act in furtherance of said gang, are hereby enjoined and restrained from
4 engaging in or performing, directly or indirectly, individually or collectively, any of the
5 following activities in the Safety Zone. Pursuant to this Order, only the NSO gang
6 members who have been named Defendants in this action and who are included in this
7 Order, shall be subject to the injunction. The injunction is enforceable against said
8 Defendants only after they have been personally served with it. All the named Defendants
9 to whom this injunction applies are adult members; this injunction does not apply to
10 juveniles.

11 **a. No Gang Association:** Driving, standing, sitting, walking, gathering or
12 appearing, anywhere in public view or any place accessible to the public, with any known
13 member of the North Side Oakland gang as said term is defined by law, including but not
14 limited to those members identified by name in this order, is prohibited except when
15 members are directly traveling to or from the following locations and where their presence
16 is required: (1) inside a school or other educational facility where they're attending a class
17 or on school business, (2) inside a church or other place of worship, (3) at a location
18 where they're actively engaged in a legitimate business, employment, trade, training,
19 profession or occupation which requires their presence, (4) at a location where they're
20 attending counseling sessions or community meetings at community centers or other
21 established organizations.

22 **b. No Witness Intimidation:** Confronting, intimidating, annoying,
23 harassing, threatening, challenging, provoking, assaulting or battering any person known
24 to be a witness to any activity of North Side Oakland gang, known to be a victim of any
25 activity of North Side Oakland gang, or known to have complained about any activity of
26 North Side Oakland is prohibited;

1 **c. No Firearms, Imitation Firearms, or Dangerous Weapons:**
2 (1) possessing any firearm, imitation firearm, ammunition, or illegal weapon as defined in
3 Penal Code section 12020, (2) knowingly remaining in the presence of anyone who is in
4 possession of such firearm, imitation firearm, ammunition or illegal weapon, or (3)
5 knowingly remaining in the presence of such firearm, imitation firearm, ammunition or
6 illegal weapon, anywhere in public view or anyplace accessible to the public is prohibited;

7 **d. No Graffiti or Graffiti Tools:** Damaging, defacing, or marking any
8 public property or private property of another, or possessing any spray paint container, felt
9 tip marker, or other graffiti tool as defined in Penal Code section 594.2 is prohibited;

10 **e. Stay Away From Drugs:** (1) participating in the illegal sale,
11 possession, or use of any controlled substance as defined in Health and Safety Code
12 section 11007, or related paraphernalia, as defined in Health and Safety Code Section
13 11364, including but not limited to rolling papers and pipes used for illegal drug use, (2)
14 knowingly remaining in the presence of anyone illegally selling, possessing, or using any
15 controlled substance or such related paraphernalia, (3) knowingly remaining in the
16 presence of any controlled substance or such related paraphernalia, other than inside a
17 location which legally stores and sells such items; (4) driving under the influence of any
18 controlled substance, or (5) without a prescription, being under the influence of any
19 controlled substance in public is prohibited;

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

25 **g. Obey Time Restriction:** Being present in a public place or in any
26 place accessible to the public, between the hours of 10:00 p.m. on any day and 5:00 a.m.

1 of the following day or going directly to or from those public places is prohibited, unless (1)
2 actively engaged in a legitimate business, trade, profession, occupation, political event or
3 educational program requiring the enjoined person's presence, (2) actively engaged in a
4 lawful entertainment event, or (3) in response to a legitimate emergency, such as a fire,
5 natural disaster, automobile accident, medical emergency or situation that requires the
6 being present in public to address a serious situation involving injury or loss of life. For
7 purposes of this provision, "public place" means any place to which the public has access,
8 including but not limited to sidewalks, alleys, streets, highways, parks and the common
9 areas of schools, hospitals, office buildings, and transport facilities. For purposes of this
10 provision, "entertainment event" means an amusement activity that occurs at a
11 commercial establishment and includes only events for which admission is charged, such
12 as movies, plays, public performances or sporting events.

13 **h. Obey All Laws:** Violating laws that (1) prohibit violence and
14 threatened violence, including murder, robbery by force or fear, assault and battery, (2)
15 prohibit interference with the property rights of others including robbery, theft, driving or
16 taking a vehicle without the owner's consent, and vandalism, or (3) prohibit the
17 commission of acts which create a nuisance including the illegal sale of controlled
18 substances and blocking the sidewalk or street is prohibited;

19 **i. No Gang Recruitment:** Taking any action to recruit gang members
20 for Defendant North Side Oakland Gang and its cliques (list them), or making any threats
21 or promises to shoot, stab, strike, hit, batter, injure, assault, disturb the peace, or destroy
22 the personal property of anyone, as an incentive to join the gang and its cliques is
23 prohibited; and

24 **j. No Loitering as Prohibited by Health and Safety Code section**
25 **11352:** Loitering in a public place in a manner and under circumstances manifesting the
26 purpose and intent to commit an offense specified in Chapter 6 of the Health and Safety

1 Code, commencing with Section 11400, in accordance with Health and Safety Code
2 Section 11532(b) is prohibited.

3 **2. Gang Members Immediately Subject to the Injunction**

4 The Court finds the persons included below are active gang members, as that
5 phrase is defined by case law. Accordingly, upon being personally served with the
6 injunction issued by this Court, they shall be bound by its terms and conditions. The
7 injunction shall become binding and enforceable against them within the area of the Safety
8 Zone:

- 9 1. Marcellus Collins
- 10 2. Derris Dillard
- 11 3. Brian Downing
- 12 4. Darrel Easley
- 13 5. Donta Easley
- 14 6. Tyrone Elebeck
- 15 7. Tyrone Jackson
- 16 8. Chanzae Johnson
- 17 9. Roy Johnson, Jr.
- 18 10. Bao Viet Ngo
- 19 11. Christopher Patrick (aka Terrence Stone, Christopher Farley or Patrick Farley)
- 20 12. Anthony Smith
- 21 13. Lucious Taylor
- 22 14. Eric Tullis
- 23 15. Yancie Young

24 **3. Gang Members Subject to the Injunction in the Future**

25 The People have proposed to return to Court to seek equitable relief against
26 additional gang members who are not included in this Order, if necessary to abate the
public nuisance occurring within the Safety Zone. The People have further proposed to
individually name said gang members as Defendants in this action, serve them with
process and notice a subsequent hearing on the injunction. The Court accepts the
People's proposal. For that purpose, the Court will retain jurisdiction and will hold further
hearings on the preliminary injunction every four to six months, or more frequently if
necessary, in order to determine whether the gang injunction should be broadened to
include other gang members. The People will be allowed to rely on the evidentiary record

1 submitted thus far in this case, and shall submit any further evidence on which the People
2 intend to rely at the hearing.

3 **4. Expedited Administrative Process (“Opt-Out”)**

4 The People have offered to provide an Expedited Administrative Process for
5 persons to dispute they are gang members or who wish to show they are no longer gang
6 members. Through this process the People wish to facilitate removal of persons from the
7 scope of this injunction so long as they can show, based on specific, verifiable criteria that
8 they are not gang members. An individual may request that his or her name be removed
9 from the gang injunction proceedings or court order either before a preliminary or
10 permanent injunction has been issued by the Court (“pre-injunction opt out request”) or
11 after a preliminary or permanent injunction has been issued by the Court (“post-injunction
12 opt out request”).

13 The information that will be considered during the administrative process will
14 include but not be limited to evidence indicating the person is no longer a gang member of
15 the NSO gang, and has not violated the provisions of the injunction for a period of two
16 years following service. Additional evidence that will be considered include but is not
17 limited to a showing that for one year the person (1) has maintained gainful employment,
18 (2) has actively pursued employment, (3) has been enrolled in an education or job training
19 program, or (4) has regularly participated in civic, cultural or community activities. Based
20 on a conclusion by the review panel that the person is not a gang member, the People will
21 agree not to oppose said person’s request to the Court to be removed from the injunction.
22 This opt out provision is in addition to any other remedies a person may have under the
23 law.

24 **5. Reinstatement of the Gang Injunction**

25 The People do not waive any rights, by participating in the Expedited Administrative
26 Process, to re-serve the injunction on a person allowed by the Court to opt-out based on

1 evidence of renewed gang and nuisance activity in the Safety Zone.

2 **6. No Bond Required:**

3 Plaintiff shall not be required to post an undertaking pursuant to Code of Civil
4 Procedure section 529(b)(3).

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7 IT IS SO ORDERED

8 Dated: _____

ROBERT B. FREEDMAN
Judge of the Superior Court

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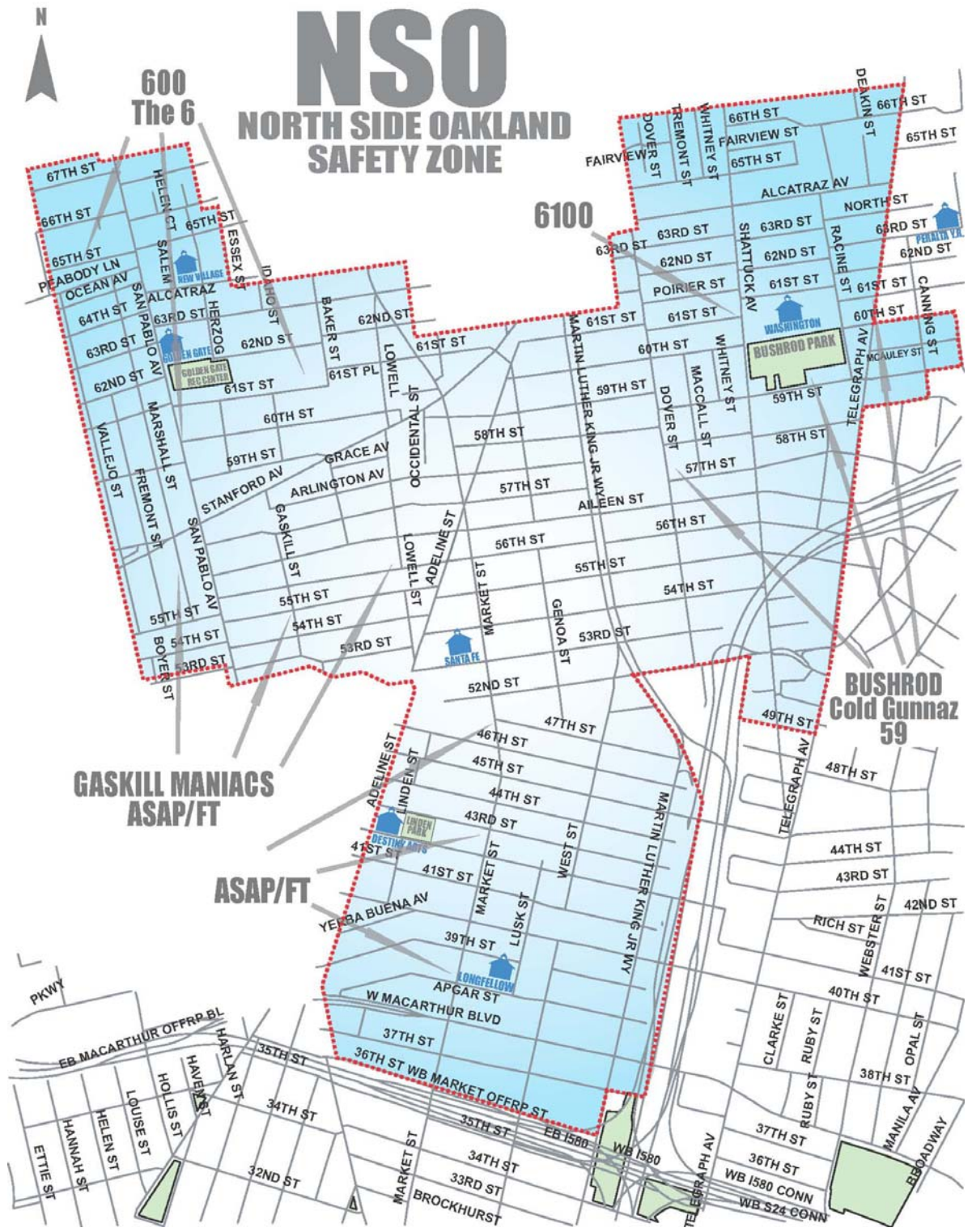
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SAFETY ZONE

The safety zone in which the gang injunction shall be enforceable is as described below and as reflected in the geographical map attached:

Starting at 37th Street and Martin Luther King, Jr. Way, then west on 37th Street until Adeline Street; then north on Adeline Street until 53rd Street; then west on 53rd Street until Boyer Street; then north along Boyer Street and along the northerly line as it continues along Vallejo Street until 66th Street; then east on 66th Street until Herzog Street; then south on Herzog Street until Alcatraz Street; then east on Alcatraz Street until Market Street; then southeast on Market Street until 61st Street; then east on 61st Street until Dover Street; then north on Dover Street until Fairview Street; then east on Fairview Street and along the easterly line as it continues along 66th Street until Telegraph Avenue; then south on Telegraph Avenue until 60th Street; then east on 60th Street until Canning Street; then south on Canning Street until 58th Street; then west on 58th Street until Telegraph Avenue; then south on Telegraph Avenue until 49th Street; then west on 49th Street until Shattuck Avenue; then north on Shattuck Avenue until 52nd Street; then west on 52nd Street until Martin Luther King, Jr. Way; then south on Martin Luther King, Jr. Way until the starting point at 37th Street, and extending 100 yards to the outside of each of those boundary streets.

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PROOF OF SERVICE

The People of the State of California, et al. v. North Side Oakland, et al.
Alameda County Superior Court No. RG10498901

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is City Hall, One Frank H. Ogawa Plaza, 6th Floor, Oakland, California 94612. On the date set forth below, I served the within document:

[PROPOSED] ORDER GRANTING PRELIMINARY INJUNCTION AGAINST THE NORTH SIDE OAKLAND CRIMINAL STREET GANG

by e-mailing the document(s) listed above to the person(s) set forth below:

Michael Haddad, Esq. Julia Sherwin, Esq. Haddad & Sherwin 505 Seventeenth Street Oakland, CA 94612 Attorneys for Defendant Yancie Young Haddad.sherwin@sbcglobal.net	Jory Steele, Esq. 39 Drumm Street San Francisco, CA 94111 Attorneys for amicus curiae, ACLU Jsteele@aclunc.org
Kendra Fox-Davis, Esq. 131 Steuart Street, Suite 400 San Francisco, CA 94105 Attorneys for amicus curiae, LCCR kfoxdavis@lccr.com	Andrea Auer, Esq. 1611 Telegraph Avenue Suite 1100 Oakland, CA 94612 Attorneys for amicus curiae aauer@averlaw.com
Andrew Steckler Alameda County Public Defender's Office 1401 Lakeside Drive, Suite 400 Oakland, CA 94612 Attorneys for amicus curiae Andrew.steckler@acgov.org	

by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below, or as stated on the attached service list, on this date before 5:00 p.m.

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- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Oakland, California addressed as set forth.
- by causing personal delivery by EXPRESS MAIL of the document(s) listed above to the person(s) at the address(es) set forth below.
- by personally delivering the document(s) listed above to the person(s) set forth below.

Roy Johnson, Jr. In Propria Persona 886 52 nd Street Oakland, CA 94608	Bao Viet Ngo In Propria Persona 2140 Highland Road Pinole, CA 94806
Anthony Smith In Propria Persona 2717 Fruitvale Avenue, Apt. A Oakland, CA 94601	Anthony Price PFN BDE054 Santa Rita Jail 5325 Broder Boulevard Dublin, CA 94568
Brian Downing In Propria Persona 5206 Anapolis Avenue San Pablo, CA 94806	Derris Dillard In Propria Persona 5428 Market Street Oakland, CA 94608
Stephon Anthony PFN BGF001 Santa Rita Jail 5325 Broder Boulevard Dublin, CA 94568	Marcelus Collins CDCR #AC8843 San Quentin Reception Center 1 Main Street San Quentin, CA 94964
Darrel Easley Register #12506-111 Federal Correctional Institution Herlong P.O. Box 800 Herlong, CA 96113	Tyrone Elebeck In Propria Persona 843 44 th Street Oakland, CA 94608
Donta Easley c/o Andrew A. Steckler Assistant Public Defender Alameda County Public Defender's	Samuel Flowers PFN BFF551 Santa Rita Jail

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Office 1401 Lakeside Drive, Suite 400 Oakland, CA 94612	5325 Broder Boulevard Dublin, CA 94568
Tyrone Jackson In Propria Persona 2341 Valley Street, #10 Oakland, CA 94612	Chanzae Johnson In Propria Persona 6620 Helen Court Oakland, CA 94608
Christopher Patrick PFN BCN624 Santa Rita Jail 5325 Broder Boulevard Dublin, CA 94568	Lucious Taylor PFN BDX204 Santa Rita Jail 5325 Broder Boulevard Dublin, CA 94568
Eric Tullis In Propria Persona 405 Sycamore, #10 Hayward, CA 94544	Rafael Campbell PFN BDE069 Santa Rita Jail 5325 Broder Boulevard Dublin, CA 94568

I am readily familiar with the City of Oakland’s practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 25, 2010, at Oakland, California.

BARBARA J. WOODS