

## **DESCRIPTION OF GUY FAWKES DAY INCIDENT BY AGP'S LAWYER GRAHAM BERRY**

The Angry Gay Pope (AGP) did a solo picket of the Church of Scientology's middle management building in Hollywood (which also houses the Office of Special Affairs). During his "Guy Fawkes" day picket he made comments to a Scientology staffer who became hysterical and called the LAPD. The LAPD reviewed AGP's video tape of the event and declined to take any action. The staffer spoke with Scientology attorney Kendrick Moxon and made a citizen's arrest for felony stalking (Penal Code section 646.9 (A)). AGP was taken into custody, bail was set at \$150,000.00 (per the court's bail guide lines) and AGP languished in solitary confinement in the downtown LAPD jail for two days.

On the afternoon of November 7, 2013, Donald Myers appeared in the Los Angeles Superior Court (in East Los Angeles) charged with misdemeanor stalking (Penal Code section 646.9 (A)). I represented him. The City Attorney's Office had appointed a "special" prosecutor to handle the case. I informed him that Myers would plead not guilty, that he would not waive his speedy trial rights that we would go to trial on the first available date and that we were not interested in pleading to a lesser charge. A discussion of the relative merits of our respective cases resulted in a tentative agreement subject to judicial approval.

AGP was then brought into the courtroom and the "special" prosecutor and I requested and were granted leave to have a side bar conference with the judge. We explained our tentative agreement to the judge who said he had never approved such an agreement before, that he disagreed with such agreements (especially in cases such as this) and that he would decline to approve the disposition agreement (a type of conditional dismissal). However, the judge was willing to listen to argument on the record and to be persuaded otherwise.

I then argued the unusual circumstances of the case to the judge informing him that contrary to the charge this was not a stalking case but a first amendment case and that AGP would otherwise be filing an anti-SLAPP motion to dismiss. The judge doubted whether I could do that in a criminal case but I assured him I had filed just such a motion in several criminal cases. Eventually I persuaded the judge of the merits of the agreement and the judge entered the following order: time for arraignment was waived for twelve months as part of an "informal diversion." In the meantime, AGP agreed, and was ordered, to stay 100 yards away from the complaining Scientology staffer and the Scientology building at 6331 Hollywood Boulevard, and to obey all laws. Assuming AGP complies with those conditions the case will be dismissed in twelve months. At that time there would no conviction, no penalties, no court costs and no continuing orders.

Back in the days of the "Old Guard" of anti-Scientology protestors the church's Reverend Barton obtained a restraining order against Keith Henson and often when Mr. Henson picketed at the Celebrity Center or Big Blue the church would bring the Rev. Barton over to the picket where the Rev. Barton would jump out from behind hedges and

the like to try and create a violation of his restraining order. In other words, they were using the restraining order as a sword instead of a shield. Should the church try that tactic on AGP I have already made responsive arrangements with the City Attorney's Office and the church would not be happy with them.