

1 Name: Russell Rope (Pro Se)
2 Address: #1607 POB 1198, Sacramento, CA 95812
3 Phone: 818-500-5592
4 Defendant in Pro Per,
5

6 **THE SUPERIOR COURT OF CALIFORNIA**
7 **COUNTY OF LOS ANGELES**
8

9 PEOPLE OF THE STATE OF CALIFORNIA,) CASE NO. BA437791
10 Plaintiff,) NOTICE OF MOTION AND MOTION
11 vs.) TO DISMISS CASE (CPC 995)
12 RUSSELL ROPE,)
13 Defendant) Next Hearing: January 15, 2016
14) Department: 33
15) Time: Between 8:30 AM & 4:00 PM
16)
17

18 1) This is a notice that on January 15, 2016 between 8:30AM and 4:00 PM in the courtroom of
19 Department 33 at Clara Foltz Criminal Justice Center of Los Angeles, Russell Rope will motion
20 for an order to dismiss this case with prejudice on grounds "that the defendant has been indicted
21 without reasonable or probable cause" in accordance with CPC 995 PC (1)(B).
22

23 **MEMORANDUM OF POINTS AND AUTHORITIES**
24 **STATEMENT OF FACTS**
25

26 2) Not only is the defendant innocent, but there is a preponderance of evidence in support of the
27 defense, and the prosecution has failed to provide any evidence that a crime was committed,
28 and/or that the defendant committed a crime, thus having zero basis for this unreasonable
29 indictment and malicious prosecution, which is based on both fabricated accusations and
30 obvious entrapment.

1 3) Evidence of the defendant's innocence and worse than entrapment is attached hereto as
2 Exhibits A through S and by this reference made a part hereof.

3
4 4) The only known witness had given a statement that should have cleared suspicion of
5 defendant to investigating officers who provided disconnected contact information where the
6 defendant made several attempts to share statements and exonerating evidence prior arrest.

7
8 5) Additionally, information leading to identification of the defendant, observations, and
9 photographic evidence were obtained as a result of illegal searches and seizures in violation of
10 the Fourth Amendment of the United States Constitution.

11
12 6) Furthermore, the defendant is the real victim and member of the California Secretary of
13 State's Safe at Home Program with more evidence proving this to be a case of entrapment in
14 retaliation for recent pro per motions to (re)open three federal R.I.C.O. cases, specifically
15 #LACV14-4900. The entrappers behind this orchestrated event are intentionally using police
16 misconduct to expose a confidential name and address while making a mockery of both the
17 Safe at Home program and this kangaroo court.

18
19 7) Clear and convincing facts, evidence, and repetitive patterns connected to previous
20 complaints and the alleged victim officer's criminal neglect for the rules exist. The defendant is
21 innocent until proven guilty, and the only real evidence favors the defendant. There are more
22 than enough reasons to doubt both the integrity and legality behind the arrest and therefore the
23 court must dismiss this matter accordingly.

24
25 8) The defendant is an innovative genius with valuable intellectual property engaged in
26 multiple pro per plaintiff civil/criminal lawsuits against powerful haters including but not
27 limited to public corporations, their executives, government organizations, representatives, and
28 law enforcement. Not only is the defendant innocent, but he is the victim of worse than
29 attempted entrapment and obstruction of justice in retaliation for recent motions to open those
30 cases. (Referencing Case #LA-CV14-04900 See Exhibit Later)

1 9) On May 30, 2015, LAPD was contacted by a rule breaking liar working for LADOT. A death
2 squad of LAPD officers responded to a false report, all failed to perceive the situation as
3 impartial peace officers, neglected the obvious trap scenario, and accepted LADOT officer's
4 fabrications as truth while ignoring contrary statements made by the only identifiable witness.

5
6 10) LAPD illegally entered the defendant's residence without a warrant or reasonable or
7 probable cause after the only witness had given their statement and access to the residence was
8 denied. The defendant saw the officers arrive, was intimidated given previous experience with
9 corrupt law enforcement, and so he waited patiently in the silence of his locked bedroom where
10 he overheard everything from officers on the street talking about watching the windows and
11 looking for probable cause, to the illegal opening of the private garage where the defendant's car
12 was parked, plus sincere statements given by witness who had more credibility than LADOT.

13
14 11) The death squad did not have reasonable or probable cause for search and arrest at the time
15 of their first response, yet returned a week and a half later gun blazing again and announcing the
16 "arrest" not "search" warrant, which was issued based on identifying information harvested from
17 an illegal search of the defendant's garage. The defendant immediately announced his
18 "surrender" and that he was coming out of his room, but was blocked by all of the officers who
19 forced their way in and proceeded to search during and after arrest. LAPD illegally
20 photographed the interior of the defendant's bedroom after he was cuffed and removed from the
21 scene. This entire situation is a grotesque violation of our civil rights not limited to worst degree
22 entrapment, unlawful arrest and illegal search and seizure, misconduct, deceitful public
23 defenders, and malicious prosecution.

24
25 12) Once again, the defendant had no motive, no intent, nor subjective predisposition to commit
26 the accused crime. He did not have any outstanding violations or citations, has a clean record,
27 was not involved in the dispute that drew his attention, and does not even know who the alleged
28 victim is months after the arrest. There is no excuse or probable cause for the unreasonable arrest
29 and search and seizure in spite of witness testimony and evidence supporting defense.

1 13) Entrapper intent was to lure defendant out of the house by parking in violation of the rules
2 and blocking the defendant's private garage visible from bedroom window. The defendant was
3 initially upstairs taking photographs where the light was better, but was eventually lured to
4 scene after being unable to ignore overhearing several minutes of loud arguing and pleading for
5 mercy coming from the other side of the house. The defendant then noticed and started
6 documenting suspicious LADOT activity before peacefully approaching to let the officer know
7 they were blocking his driveway and breaking the rules. He lightly tapped on the window once
8 to get attention, pointed at the no parking/video surveillance signs, mentioned that officer is not
9 above the law, walked to other side of car to take a photo of the parked LADOT vehicle with
10 signs in background, then peacefully walked away without preventing anyone from leaving.
11

12 14) The objective LADOT officer misconduct, rule breaking, coercion, and the overall scenario
13 as exhibited would have caused any normally law-abiding and stand-up citizen, such as the
14 defendant, to at very least take notice and probably document if not also report the situation.
15 There are a lot of motives not limited to retaliation for lawsuits and personal gain for officer(s).
16 Defendant had every right to approach and most definitely did not commit a crime. Had the
17 defendant done things he is wrongfully accused of, not only would there be evidence of a crime,
18 which there is not, but entrapment defense would stand on grounds that the defendant was
19 enjoying creative work, was not completely interrupted as he finished the photo set he was
20 shooting over the duration of what he overheard, and could care less about parking enforcement
21 on his street because he has a private parking garage.
22

23 15) Despite the only witness and supporting evidence in favor of the defense, an unlawful arrest
24 warrant was served on June 11, 2015 based on both fabricated accusations made by a rule
25 breaking LADOT officer and illegally obtained evidence on the date of May 30th, 2015. The
26 defendant did not make a criminal threats, nor did he do or say the things mentioned in the
27 police report. There was no joke of a "moving" truck on his secluded cul-de-sac up in the hills
28 where the LADOT officer had no real business. The alleged victim went out of their way to
29 entrap the defendant and then lied in conjunction with LAPD when the desired results were not
30 generated. (See Exhibit A: Map of Incident; Schematic Drawing of Human Mouse Trap)

1 16) The alleged victim's parking around the time 2:22pm displays blatant disregard for the rules,
2 disrespect for the neighbors, and an attitude that they are above the law of the land. The LADOT
3 license plate appears to be a vanity number or custom selected based on the "222," planted in the
4 defendant's path on purpose, which has been reported as similar harassment in previous
5 complaints about recurring birth order and age discrimination hacks. (See Exhibits B & C:
6 Photographs of LADOT/LP: Parked in Violation of Rules)

7
8 17) LAPD officers provided disconnected contact information and made zero attempt to contact
9 the defendant at the phone number they were allegedly given. (See Exhibit D: Photographs of
10 LAPD Business Cards)

11
12 18) On at least both May 30 and June 1, 2015, the defendant made several attempts to connect
13 with the investigating officers for the purpose of giving a statement and sharing exonerating
14 evidence as witnessed by roommates. (See Exhibit E: Screen Shot of Defendant's Call Log)

15
16 19) The defendant had been working on motions to (re)open federal civil cases where he is the
17 plaintiff suing defendants under criminally indictable laws prior to entrapment and originally
18 filed before the unreasonable and unlawful arrest. (See Exhibit F: Photograph of Dated Stamp
19 For Civil Case; Entrapment Motive)

20
21 20) The defendant had previously complained about and reported LADOT "222" citation
22 harassment, LAPD "187" "2" citation harassment, and other misconduct by law enforcement not
23 limited to those agencies in his civil cases. This demonstrates a connection to previous civil etc.
24 complaints and both motive and intent for entrapment. (See Exhibit G: Photographs of Previous
25 Harassment; Evidence of Entrapment Motive)

26
27 21) The neighbors have a functional security camera pointed directly at the scene of the alleged
28 incident, but that exonerating video allegedly disappeared and is not mentioned in the police
29 report. The neighbor is suspected to have lied to the public defender's investigator about the
30 video. There is no excuse for LAPD to have interviewed and quoted this non-witness, who is

1 listed as a witness, without questioning him about the security camera, which was left out of
2 the report and intentionally neglected by both the detectives and public defender. (See Exhibit
3 H: Photographs of Surveillance Cameras; Evidence of Missing Evidence)

4
5 22) There have been recent related denial of service hack attacks on the defendant including but
6 not limited to temporarily taking his websites and blog off line, and removing published books
7 and evidence their Online store, and termination of a bank account with money intentionally
8 being withheld. (See Exhibit I: Screen Shots of Hack Attacks; Attempt to Hide Evidence)

9
10 23) Entrappers not limited to law enforcement made a lot of attempts to coerce false confession
11 and used similar entrapment tactics to harass and cause more problems for the defendant. (See
12 Exhibits J, K, & S: Photographs of News/LAPD/Entrapment Attacks; Follow Up Attacks)

13
14 24) The witness provided LAPD with a short video clip shot at exactly 2:22pm on May 30,
15 2015. The video was taken 6 minutes after the defendant peacefully left the scene and proves
16 that both LADOT/LAPD lied about an obstructed exit. The alleged victim was obviously not in
17 a state of (sustained) fear for they did not flee and are quoted as saying they were alright when
18 the neighbor asked if they were ok. (See Exhibit L: Video Shot By Witness; Did Not Prevent
19 Exit, No Immediate Threat)

20
21 25) The defendant acquired copies of some tickets received by others on his street. The citation
22 issued by the only LADOT officer on the street at 2:12pm on May 30, 2015, was issued by
23 officer "Chavez" where the same person is repetitively named "Veronica Dominguez"
24 throughout the police report. That citation has another noncoincidental "222" number and
25 officers are not allowed to use other officers computers. It was confirmed with LADOT that
26 citations are issued in sequence that would have made it easy to intentionally issue a "222"
27 citation number. Furthermore, the officer is quoted in the police report as having been able to
28 successfully complete their job, and according to multiple tickets issued by others, not even a
29 legal threat to stay away would have interfered with regular work. (See Exhibit M: Copies of
30 Citations Issued; Previous Harassment & Officer Name Mismatch)

1 26) Detective Rodriguez told the defendant the he was not being recorded before the interview.
2 Additionally, the detective left interview answers blank on the intake paperwork and tried to
3 trick the defendant into signing before getting called out on it. The defendant supplied the
4 prosecution with his written statement and evidence. (See Exhibit O: Defendant's Written
5 Statement; Not Guilty & Entrapment)

6
7 27) The defense provided the prosecution with a written and signed witness statement. The
8 witness gave a statement prior to the illegal search and unreasonable arrest warrant and unlawful
9 arrest. The witness is quoted in the police report as stating that "the defendant did not make a
10 threat." That witness also witnessed the only other unidentifiable witness who told the defendant
11 to make a citizen's arrest of the LADOT officer as that unknown witness/neighbor walked by. It
12 was not worth it nor was doing anything to prevent that officer from leaving. (See Exhibit N:
13 Wintess's Written Statement; In Support Of The Defense)

14
15 28) As previously mentioned, this is a case of worse than retaliation entrapment and could be
16 viewed as attempted murder committed by the alleged victim in conspiracy with the defendant's
17 plaintiff civil/criminal lawsuits. Now would be a good time to review that case and its evidence,
18 or the reader can probably skip that and come back if feeling a need for further research before
19 ruling to dismiss. (See Exhibit P: (CD) Federal Civil Case #LA-CV14-04900; Previous
20 Complaints & Motive for Entrapment)

21
22 29) The defendant filed several complaints for security reasons, to create more witnesses, and to
23 document and report these obscene civil rights violations. The defendant's intent to document
24 and report, as demonstrated by actions and evidence of those actions speak louder than words,
25 specifically over words from a shady LADOT officer that no jury of the defendant's peers in this
26 country and probably on the entire planet would ever side with. (See Exhibit R: Reports/
27 Complaints; More Information & Motive for Entrapment)

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30) A criminal case in California may be dismissed on the grounds "that the defendant has been indicted without reasonable or probable cause" in accordance with CPC 995 PC (1)(B). It is unreasonable to assume a preponderance of evidence exists when there is no evidence of a crime and an exonerating witness statement supported by photos and videos. Additionally, it is unreasonable to issue an arrest warrant based on identifying information received from an illegal search.

31) A search without a “search” warrant is presumptively illegal, and must be justified by the prosecution. The prosecution bears the burden of establishing the legality of a warrantless search. “It is hornbook law that searches conducted outside the judicial process, without prior approval by judge or magistrate, are per se unreasonable under the Fourth Amendment’s warrant requirement unless they fall within one of a few narrow exceptions thereto.” (*Coolidge v. New Hampshire* (1971) 403 U.S. 443, 454-455 [29 L.Ed.2d 564, 576; 91 S.Ct. 2022]).

32) The prosecution's burden of proof is preponderance of the evidence. (People v. Superior Court (Bowman)(1971) 18 Cal.App.3d 316.) The burden of justifying a warrantless search, seizure, arrest or detention falls upon the prosecution. People v. Williams (1999) 20 Cal.4th 119; Wilder v. Superior Court (1979) 92 Cal. App. 3d 90. The defendant's only burden is to show, by competent evidence presented or stipulation entered into at the hearing, that the search or seizure occurred without a search or arrest warrant, and that the evidence sought to be suppressed is a fruit of that act.

**DEFENDANT HAS STANDING TO CHALLENGE THE PROSECUTION BASED ON
BOTH CPC 995 PC (1)(B) AND FOURTH AMENDMENT VIOLATIONS**

33) The Fourth Amendment commands that "The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person and things to be seized." The Fourth Amendment and the exclusionary rule apply to the states via the 14th Amendment (Mapp v. Ohio (1961) 367 U.S. 643).

34) A person may challenge the propriety of a search or seizure which violates the defendant's own reasonable expectations of privacy in the area searched or the item seized. (Rakas v. Illinois (1978) 439 U.S. 128.) The "capacity to claim the protection of the Fourth Amendment depends not upon a property right in the invaded place but upon whether the person who claims the protection of the Amendment has a legitimate expectation of privacy in the invaded place." (Katz v. U.S. (1967) 389 U.S. 347, 353.) Furthermore, an individual always possesses a reasonable expectation of privacy in their own personhood, and may always challenge their body's seizure. (Terry v. Ohio (1968) 391 U.S. 1.)

35) There was no reasonable or probable cause to search and arrest during LAPD's first response and they should not have been permitted to use information illegally obtained from the defendant's license plate to identify the suspect and request an arrest warrant. The "arrest" warrant, which was reviewed by the defendant at time of arrest, did not have the words "search" or "photograph" written on it; therefore, the illegal searches and certain fruits obtained as a result of the aforementioned warrant-less acts must be suppressed. Additionally, the warranted part of the arrest must be quashed. Not only is the prosecution's burden of proof a preponderance of evidence, but that evidence must prove a crime was committed and that the defendant committed that crime, which is non possible because the defendant is innocent. The prosecution also has to disprove a preponderance of entrapment evidence pointing towards misconduct by LADOT and LAPD, in collusion with corrupt PD and malicious prosecution.

1 **OFFICERS ILLEGALLY SEARCHED FOR EVIDENCE TO LINK DEFENDANT**
2 **AND SUBJECT OF OBJECTIVE ENTRAPMENT TO FABRICATED ACCUSATIONS**

3
4 36) A police officer may only detain a citizen if the officer possesses: specific and articulable
5 facts causing him to suspect that (1) some activity relating to crime has taken place or is
6 occurring or about to occur, and (2) the person he intends to stop or detain is involved in that
7 activity. Not only must he subjectively entertain such a suspicion, but it must be objectively
8 reasonable for him to do so: the facts must be such as would cause any reasonable police
9 officer in a like position, drawing when appropriate on his training and experience... , to
10 suspect the same criminal activity and the same involvement by the person in question. The
11 corollary to this rule, of course, is that an investigative stop or detention predicated on mere
12 curiosity, rumor or hunch is unlawful, even though the officer may be acting in complete good
13 faith. In Re Tony C. (1978) Cal.3d. 888, 893.

14
15 37) In the present case, the police acted without reasonable suspicion to arrest the defendant or
16 search his property without a warrant, denied safe access to giving a statement prior to arrest,
17 tried to word the one-sided police report and alleged victim statements to make the defendant
18 look guilty, and ended up with many discrepancies and several violations not limited to of 4th
19 Amendment rights.

20
21 **OFFICERS LACKED PROBABLE CAUSE & LIED ABOUT REASONABLE CAUSE**
22 **TO GET UNLAWFUL “ARREST” WARRANT IS NOT A “SEARCH” WARRANT**

23
24 38) A police officer may arrest a person without a warrant: 1) whenever probable cause exists
25 to believe the person has committed a felony; or 2) whenever probable cause exists to believe a
26 misdemeanor has been committed in the officer’s presence. (Pen. Code, §386; In re Thierry S.
27 (1977) 19 Cal3d. 727.

1 39) Probable cause “is shown if a man of ordinary care and prudence would be led to believe
2 and conscientiously entertain an honest and strong suspicion that the accused is guilty. People
3 v. Ingle (53 Cal.2d 407). Law enforcement officers must have probable cause before they may
4 lawfully arrest a person for any crime. (People v. Mower (2002) 28 Cal.4th 457. To determine
5 if police acted with probable cause for arrest, the court will look only at the facts and
6 circumstances presented to the officer at the time he was required to act. (U.S. v. Watson
7 (1968) 400 F.3d 25.)

8
9 40) The group of officers in this case did not have a warrant or probable cause and left the
10 scene when they realized they were in the wrong, but not without illegally obtaining
11 identifying information that was used in the arrest warrant. Had the officers really had
12 reasonable suspicion of felonious activity worthy of arrest, they would have also had probable
13 cause to force their way into the defendant's room and make an arrest during their first
14 response. The police and DDA should have known that without any evidence of a crime, with
15 alleged victim vs. defendant statements canceling each other out, and with a third party
16 witness statement and photographs in favor of the defendant, that there is no preponderance of
17 evidence worthy of a warrant for the ridiculous accusations especially given the obscene trap
18 scene demonstrated by the map in Exhibit A.

19
20 41) Accordingly, the defense is prepared to prove in reply to any opposition of this motion and
21 at the hearing on this motion that any evidence, with the exception of the DOT officer’s cell
22 phone video displaying the defendant pointing at the no parking sign and support his
23 statements, the information, or observations thereby obtained by police without a search
24 warrant cause must be suppressed and the arrest warrant was not valid because it was based on
25 lack of evidence and reasonable or probable cause this case must be dismissed pursuant to
26 CPC 995 PC (1)(B) and the 4th Amendment.

1 **UNLAWFUL SEARCH MUST BE EXCLUDED FROM EVIDENCE**

2
3 42) Evidence seized as the result of an illegal search, seizure or arrest, or one which has
4 exceeded permissible bounds, is the “fruit of the poisonous tree” and must be excluded. (Wong
5 Sun v. United States (1973) 371 U.S. 471.)

6
7 43) Here the arrest warrant, which should not have been issued, was warranted based on
8 fabrications and in neglect of the only third party witness. Identifying information used in the
9 arrest warrant was obtained through an illegal and unwarranted search of the defendant’s
10 private parking garage. The arrest warrant was unlawful and it was definitely not for search
11 therefore. Therefore the warrant must be quashed, fruits of the searches are tainted and must be
12 suppressed, and this should be case dismissed.

13
14 **INNOCENT DEFENDANT WAS ENTRAPPED/ILLEGALLY LURED INTO**
15 **LEGAL INTERACTION WITHOUT PREDISPOSITION, INTENT, OR MOTIVE**

16
17 44) Entrapment is a complete defense to a criminal charge, on the theory that "Government
18 agents may not originate a criminal design, implant in an innocent person's mind the disposition
19 to commit a criminal act, and then induce commission of the crime so that the Government may
20 prosecute." Jacobson v. United States, 503 U.S. 540, 548 (1992). A valid entrapment defense
21 has two related elements: (1) government inducement of the crime, and (2) the defendant's lack
22 of predisposition to engage in the criminal conduct. Mathews v. United States, 485 U.S. 58, 63
23 (1988). Of the two elements, predisposition is more important.

24
25 45) Inducement is the threshold issue in the entrapment defense. Mere solicitation to commit a
26 crime is not inducement. Sorrells v. United States, 287 U.S. 435, 451 (1932). Nor does the
27 government's use of artifice, stratagem, pretense, or deceit establish inducement. Id. at 441.
28 Rather, inducement requires a showing of at least persuasion or mild coercion, United States v.
29 Nations, 764 F.2d 1073, 1080 (5th Cir. 1985); pleas based on need, sympathy, or friendship,
30 ibid.; or extraordinary promises of the sort "that would blind the ordinary person to his legal
duties," United States v. Evans, 924 F.2d 714, 717 (7th Cir. 1991). See also United States v.

Kelly, 748 F.2d 691, 698 (D.C. Cir. 1984) (inducement shown only if government's behavior
of 14 Page Number was such that "a law-abiding citizen's will to obey the law could have been
overborne"); United States v. Johnson, 872 F.2d 612, 620 (5th Cir. 1989) (inducement shown if
government created NOTICE OF MOTION AND MOTION TO DISMISS CASE (CPC 995)
"a substantial risk that an offense would be committed by a person other than one ready to
commit it").

CONCLUSION

46) To prove that the defendant is guilty making a criminal threat, the People must prove that:
1. The defendant willfully threatened to unlawfully kill or unlawfully cause great bodily injury
to the alleged victim; 2. The defendant made the threat to the alleged victim; 3. The defendant
intended that his statement be understood as a threat [and intended that it be communicated to
the alleged victim]; 4. The threat was so clear, immediate, unconditional, and specific that it
communicated to the alleged victim a serious intention and the immediate prospect that the
threat would be carried out; 5. The threat actually caused the alleged victim to be in sustained
fear for their own safety; AND 6. Alleged victim's fear was reasonable under the
circumstances. 7. That this was not a case of entrapment. The defense stands firmly on grounds
that not a single one of these elements can be proved by the malicious prosecution, and the fact
that none of these elements can be proved means the arrest was unlawful. The honest defense
humbly requests that the court dismiss this case with prejudice, seal it, and expunge records.

*Copyrighted then respectfully submitted this 4th day of January 2016

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COURT: Superior Court of Los Angeles aka Clara Foltz Criminal Justice Center of LA

[] By Hand Delivery - I handed a copy of this notice to Destiny Ramsey, DDA in the courtroom and in the presence of the judge.

Addressee(s): **Destiny Ramsey**, Deputy District Attorney, Los Angeles County District Attorney's Office, Central Preliminary Hearing Unity, 210 W. Temple St. 17th Floor, Los Angeles, CA 90012

I declare under penalty of perjury pursuant to the laws of the State of California and the United States that the foregoing is true and correct. Executed on January 4, 2016, at Los Angeles, CA.