

*How Mr. Byrd, Ms. Wilson, & Ms. Smith's Civil Rights Became Violated*

***How Mr. Byrd, Ms. Wilson, and Ms. Smith's  
Civil Rights were Violated  
by Natural Men***

*who swore to uphold the positions of  
**Kern County Deputy**  
as Constitutionally Prescribed by Law  
including*

*Mr. Hector Ruiz*

*Mr. Leonard Shin.*

*& assisting Deputies who have not yet identified themselves to any  
of the civil rights victims except for Mr. Joe Garcia,*

**whereby causing**

**Mr. Byrd, Ms. Wilson, and Ms. Smith to suffer  
sustained personal injuries.**

**Definition of PERSONAL INJURY on Black's Law Dictionary, 2<sup>nd</sup> Ed. Online:**

***“A non physical injury that occurs due to wrongful eviction, slander, false arrest or by  
violating the right to privacy of any person.”<sup>1</sup>***

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<sup>1</sup> “PERSONAL INJURY”, *Black's Law Dictionary, 2<sup>nd</sup> Ed. Online*: <http://thelawdictionary.org/personal-injury/>

***Why* The Plaintiffs Assert  
Kern County Deputies  
violated**

**The Fourteenth Amendment  
via *not* providing  
“equal protection of the laws”  
*to all parties on 5-10-2016 (pages 186-191).***

**The Fourteenth Amendment of The Constitution of The United States reads:**

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the **equal protection of the laws**."<sup>2</sup>

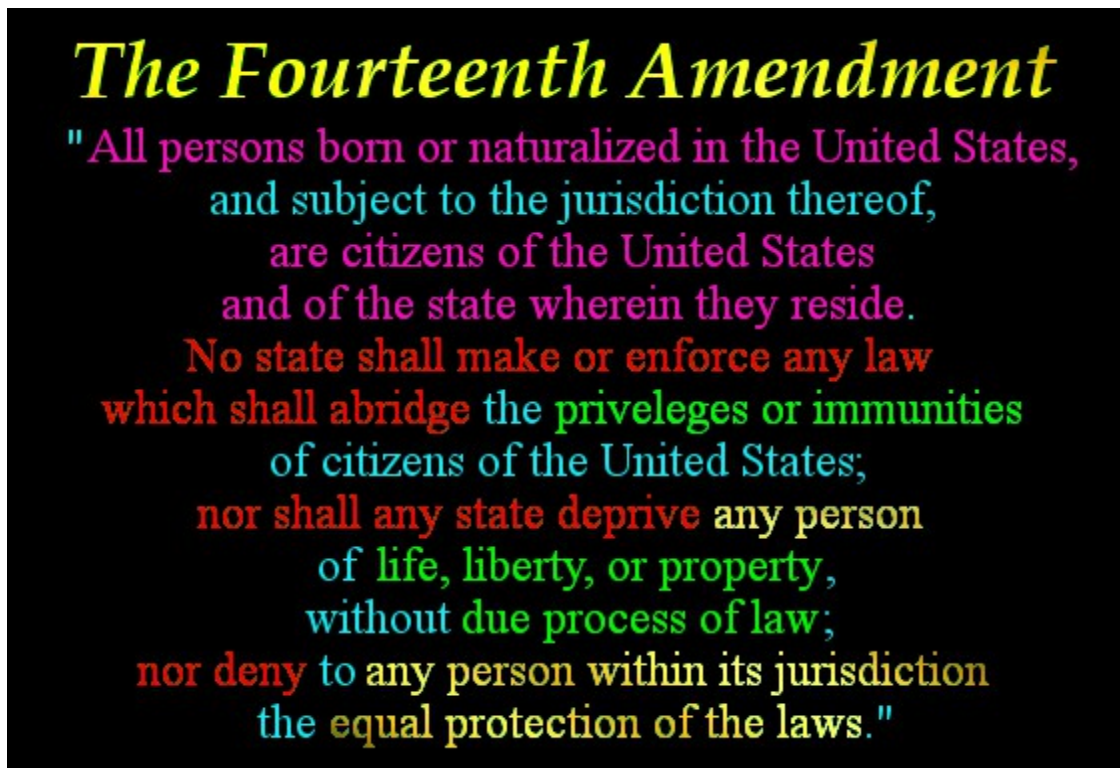
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<sup>2</sup> Library of Congress website, “Primary Documents in American History; *The 14<sup>th</sup> Amendment*”:  
<https://www.loc.gov/rr/program/bib/ourdocs/14thamendment.html>

**WHEREAS** Ms. Wilson, Ms. Smith, & Mr. Rosenberg respectably asserted their *right* to be on the property *as well as* exactly *how* Ms. Smith was operating in accordance with the law in order to establish an adverse possession claim while *showing* the “written instrument used to found such claim” (*page 234*) to the Officers, **however Officers Ruiz & Shin did not learn about the process of adverse possession after Officer Shin admitted he did not know about such law** (*page 187*), & officers chose to provide protection of the law to *the title holder who did not submit a formal complaint* (*Mr. Hiram Henriquez*), **however they did not provide “equal protection of the laws” to Ms. Smith, Ms. Wilson, Mr. Byrd, or Mr. Rosenberg, thus:**

**Be It Hereby Recognized That:**

Ms. Wilson, Ms. Smith, Mr. Byrd, & Mr. Rosenberg were not provided “equal protection of the laws” on 5-10-2016. Officers Ruiz & Shin *violated The Fourteenth Amendment.*



*Color-coded version from [www.ReUniteTheStates.org](http://www.ReUniteTheStates.org)*

***Why The Plaintiffs Assert  
Kern County Sheriff's Deputies  
violated***

***The Fourth Amendment***

***on 5-11-2016 (pages 197-206) via***

- ***entering onto the property without a warrant & violating Mr. Byrd's claim***
- ***performing an unreasonable search & seizure of Mr. Byrd's smartphone***
- ***performing a false arrest (the couple was never properly evicted & no unlawful detainer was filed)***
- ***threatening to arrest the couple again if they return home***

**The Fourth Amendment of The Constitution of The United States reads:**

“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 persons or things to be seized.”<sup>3</sup>

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<sup>3</sup> **National Archives website, “Bill of Rights Transcript”:**  
[http://www.archives.gov/exhibits/charters/bill\\_of\\_rights\\_transcript.html](http://www.archives.gov/exhibits/charters/bill_of_rights_transcript.html)

The Following Excerpt is an from **“What Does The Fourth Amendment Mean?”** on [www.USCourts.gov](http://www.USCourts.gov):

“The Constitution, *through the Fourth Amendment*, protects people from unreasonable searches and seizures by the government. The Fourth Amendment, however, is not a guarantee against all searches and seizures, but only those that are deemed unreasonable under the law.

- **Searches and seizures inside a home without a warrant are presumptively unreasonable.** *Payton v. New York*, 445 U.S. 573 (1980).

However, there are some exceptions. **A warrantless search may be lawful:**

- **If an officer is given consent to search;** *Davis v. United States*, 328 U.S. 582 (1946)
- **If the search is incident to a lawful arrest;** *United States v. Robinson*, 414 U.S. 218 (1973)
- **If there is probable cause to search and exigent circumstances;** *Payton v. New York*, 445 U.S. 573 (1980)
- If the items are in plain view; *Maryland v. Macon*, 472 U.S. 463 (1985).
- **When an officer observes unusual conduct which leads him reasonably to conclude that criminal activity may be afoot, the officer may briefly stop the suspicious person and make reasonable inquiries aimed at confirming or dispelling the officer's suspicions.** *Terry v. Ohio*, 392 U.S. 1 (1968)  
*Minnesota v. Dickerson*, 508 U.S. 366 (1993)<sup>4</sup>

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4 “What Does the Fourth Amendment Mean?” on *United States Courts* website:

<http://www.uscourts.gov/about-federal-courts/educational-resources/about-educational-outreach/activity-resources/what-does-0>

## **“EVICTION”**

**Dispossession by process of law ; the act of depriving a person of the possession of lands which he has held, in pursuance of the judgment of a court.** Reasonerv. Edmundson, 5 Ind. 395; Cowdrey v. Coit, 44 N. Y. 392, 4 Am. Rep. 690; HomeLife Ins. Co. v. Sherman, 46 N. Y. 372. **Technically, the dispossession must be by judgment of law; if otherwise, it is an ouster.** Mitchell v. Warner, 5 Conn. 497. In the civil law. **The abandonment which one is obliged to make of a thing, in pursuance of a sentence by which he is condemned to do so.** Poth. Contr. Sale. pt. 2, c.1,<sup>5</sup>

### **CIVIL CODE SECTION 789-793 “Eviction Procedures in California”<sup>6</sup>**

**789. A tenancy or other estate at will, however created, may be terminated by the landlord's giving notice in writing to the tenant, in the manner prescribed by Section 1162 of the Code of Civil Procedure, to remove from the premises within a period of not less than 30 days, to be specified in the notice.**

**(b) In addition, a landlord shall not, with intent to terminate the occupancy under any lease or other tenancy or estate at will, however created, of property used by a tenant as his or her residence, willfully:**

**(1) Prevent the tenant from gaining reasonable access to the property** by changing the locks or using a bootlock or by any other similar method or device;

**(3) Remove from the premises the tenant's personal property, the furnishings, or any other items without the prior written consent of the tenant, except when done pursuant to the procedure set forth in Chapter 5 (commencing with Section 1980) of Title 5 of Part 4 of Division 3.**

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<sup>5</sup> Black's Law Dictionary, 2<sup>nd</sup> Ed.: <http://thelawdictionary.org/eviction/>

<sup>6</sup> From *NOLO* website: <http://www.nolo.com/legal-encyclopedia/illegal-eviction-procedures-california.html>

(c) Any landlord who violates this section shall be liable to the tenant in a civil action for all of the following:

(1) Actual damages of the tenant.

(2) An amount not to exceed one hundred dollars (\$100) for each day or part thereof the landlord remains in violation of this section. In determining the amount of such award, the court shall consider proof of such matters as justice may require; however, in no event shall less than two hundred fifty dollars (\$250) be awarded for each separate cause of action. Subsequent or repeated violations, which are not committed contemporaneously with the initial violation, shall be treated as separate causes of action and shall be subject to a separate award of damages.

(d) In any action under subdivision (c) the court shall award reasonable attorney's fees to the prevailing party. In any such action the tenant may seek appropriate injunctive relief to prevent continuing or further violation of the provisions of this section during the pendency of the action. The remedy provided by this section is not exclusive and shall not preclude the tenant from pursuing any other remedy which the tenant may have under any other provision of law.

790. After such notice has been served, and the period specified by such notice has expired, but not before, the landlord may reënter, or proceed according to law to recover possession.<sup>7</sup>

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<sup>7</sup> *Official California Legislative Information website:* <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=civ&group=00001-01000&file=789-793>



## **What Is an Eviction?**

In order to lawfully evict a tenant, the landlord must take a series of steps & usually must file an unlawful detainer lawsuit. An unlawful detainer lawsuit has very strict & specific procedural rules that must be followed by the landlord.

## **What Is a Wrongful Eviction?**

A wrongful eviction is an eviction of a tenant by a landlord who did not follow the state & city statutory requirements for eviction. Almost every state prohibits landlords from utilizing self-help evictions & provides penalties for landlords who break the law.

## **What Are Some Examples?**

Any landlord who takes the law into their own hands to scare or force a tenant off may face legal action. Some of the most common acts by landlords that lead to these lawsuits are:

- Threats to the tenants health or safety
- Intimidation of the tenant
- Shutting off the tenant's utilities such as water, heat, electricity, and gas
- Attempts to physically remove the tenant, including changing the locks or putting the tenants property on the street
- Any other action forbidden by state or city statute

## **What Is a Wrongful Eviction Lawsuit?**

This type of lawsuit is described by a legal action brought by an evicted tenant against the landlord for not following the state & city eviction laws. Any landlord who does not follow the state & city eviction procedures is liable for wrongful eviction & may be sued for actual money damages & for other penalties, such as treble damages.

## **Defenses to a Wrongful Eviction Lawsuit**

The fact that the tenant did not pay rent, destroyed the rental property, or otherwise acted disgracefully or offensively are not a defense to the lawsuit. A landlord must always follow the eviction laws of the state and city where the rental property is located.”<sup>8</sup>

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<sup>8</sup> **Legal Match on “Wrongful Evictions”:** <http://www.legalmatch.com/law-library/article/wrongful-eviction-lawsuits.html>

## EVIDENCE:

**Any evidence Mr. Hector Ruiz may have gathered prior to arresting Mr. Byrd & Ms. Wilson *was not presented before a magistrate or judge***; this is *evident* whereby under the “Magistrate Signature” section, the declaration reads “[not signed by magistrate]”, *as shown*:

Arrest Dec #: 55292	Agency Case #: SR1612967	Type: Adult PC Dec	Status: Submitted To Judge 5/11/2016 3:22 PM	<b>INMATE COPY</b>
Officer: Hector Ruiz 501236 Kern County Sheriff	Entered Date/Time: 5/11/2016 3:30 PM			
<b>Officer Signature</b>				
I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief.				
Executed on 5/11/2016 3:22 PM at Kern County, CA by Hector Ruiz.				
<b>Magistrate Signature</b>				
[not signed by magistrate]				
<b>Subject</b>				
Subject Name: ALEXANDRA WILSON	Birth Date: 1/26/1982	Birth Place: --	Birth State: --	
Gender: Male	Race: White	Height: 510	Weight: 155	Hair Color: Blond
	Eye Color: Brown			
SSN: --	DL Number: D5786417	DL State: CA	DL Exp Date: --	
Address: TRANSIENT LAKE ISABELLA, CA 93240	Home Phone: --	Work Phone: --	Mobile Phone: --	
<b>Arrest</b>				
Offense Date/Time: 5/11/2016 11:30 AM	Offense Location: County	Arrest Type: Open	Arrest Date/Time: 5/11/2016 12:50 PM	Court Division: --
Location of Arrest: 2232 COMMERCIAL AVE LAKE ISABELLA, CA 93240	In Traffic Accident: --	Physical Force Used: --	Carbid Hold Placed: --	
Vehicle:				

*A closeup image- see pages 201 & 202.*

**A judge would have informed Mr. Ruiz that the couple needed to be evicted & could not be arrested.**

**WHEREAS** an EVICTION NOTICE *is required* to be served to any individual cause DISPOSSESSION in order to give “lawful possessors” *at least 30 days to move off the property &/or to negotiate terms with the title holder, (see pages 44 & 45 re: “EVICTION”)*, **however Ms. Smith, Mr. Byrd, & Ms. Wilson were never evicted,**

**WHEREAS** the couple *was not in derogation of any law at the time officers entered past the NO TRESPASSING sign & through the closed gate at the front of the property, & then onto the property without a warrant,*

**WHEREAS** *Officer Ruiz directed Ms. Wilson to stop filming & to set down Mr. Byrd's smartphone, & then confiscated Mr. Byrd's smartphone- which contains contact information for all his family members, friends, & emergency contacts including the Payee who handles Mr. Byrd's finances, Mr. Fred Divine,*

**WHEREAS** *searches and seizures inside a home without a warrant are presumptively unreasonable. Payton v. New York, 445 U.S. 573 (1980)*

**WHEREAS** *no officer was given consent to search; Davis v. United States, 328 U.S. 582 (1946)*

**WHEREAS** *the search and seizure was not incident to a lawful arrest; United States v. Robinson, 414 U.S. 218 (1973)<sup>9</sup>*

### **Be It Hereby Recognized:**

*Officer Ruiz performed an unlawful search and seizure which amounted to “the theft of Mr. Byrd's smartphone” which caused Mr. Byrd, Ms. Wilson, and Ms. Smith to lose evidence directly related to this particular instance of their civil rights being violated (“Obstruction of Justice”) which caused a sustained personal injury to all three persons.*

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<sup>9</sup> “What Does the Fourth Amendment Mean?” on *United States Courts* website:

<http://www.uscourts.gov/about-federal-courts/educational-resources/about-educational-outreach/activity-resources/what-does-0>

**Be It *Also* Hereby Recognized:**

**Officers performed a FALSE ARREST upon Mr. Byrd & Ms. Wilson in order to forcibly remove them from their home; the couple was never evicted, *whereby violating:***

**PENAL CODE SECTION**

**146. Every public officer, or person pretending to be a public officer, who, under the pretense or color of any process or other legal authority, does any of the following, without a regular process or other lawful authority, is guilty of a misdemeanor:**

- (a) Arrests any person or detains that person against his or her will.**
- (b) Seizes or levies upon any property.**
- (c) Dispossesses any one of any lands or tenements.<sup>10</sup>**

***Definition of FALSE ARREST, Black's Law Dictionary, 2<sup>nd</sup> Edition:***

This term applies to the unlawful restraint and or imprisonment of a person and an illegal arrest.<sup>11</sup>

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<sup>10</sup> California State Penal Code sections 142-181 from "Official California Legislative Information"

*website:* <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=00001-01000&file=142-181>

<sup>11</sup> "FALSE ARREST", *Black's Law Dictionary, 2<sup>nd</sup> Ed. Online:* <http://thelawdictionary.org/false-arrest/>

***Why*** The Plaintiffs Assert  
**Officer Hector Ruiz**  
violated Mr. Byrd & Ms. Wilson's  
**“First Amendment Right”**  
***via illegally seizing Mr. Byrd's smartphone***  
and  
**California PENAL CODE 141(b)**  
via

***seeking to fraudulently represent evidence*** the couple gathered  
which helps prove crimes were being committed by officers (***Mr. Ruiz sought to fraudulently represent the evidence in order to try to convince the court that the couple was trespassing when in fact they had not been.***)

**The First Amendment of The Constitution of The United States reads:**

“Congress shall make **no law** respecting an establishment of religion, or prohibiting the free exercise thereof; or **abridging the freedom of speech**, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”<sup>12</sup>

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12 National Archives *website*, “Bill of Rights *Transcript*”:  
[http://www.archives.gov/exhibits/charters/bill\\_of\\_rights\\_transcript.html](http://www.archives.gov/exhibits/charters/bill_of_rights_transcript.html)

Ms. Wilson was aware that **the following U.S. Courts of Appeals have recognized the First Amendment right to record the police and/or other public officials in the performance of their duty**, as she had been writing a “history of civil law *almanac*” (see pages 75 & 76) for many years & had researched the topic before building [www.ReUniteTheStates.org](http://www.ReUniteTheStates.org) as well (page 66):

- First Circuit:** see **Glik v. Cunniffe**, 655 F.3d 78, 85 (1st Cir. 2011) (“**[A] citizen's right to film government officials, including law enforcement officers, in the discharge of their duties in a public space is a basic, vital, and well-established liberty safeguarded by the First Amendment.**”); **Iacobucci v. Boulter**, 193 F.3d 14 (1st Cir. 1999) (**police lacked authority to prohibit citizen from recording commissioners in town hall "because [the citizen's] activities were peaceful, not performed in derogation of any law, and done in the exercise of his First Amendment rights[.]”**).
- Seventh Circuit:** see **ACLU v. Alvarez**, 679 F.3d 583, 595 (7th Cir. 2012) (“**The act of making an audio or audiovisual recording is necessarily included within the First Amendment's guarantee of speech and press rights as a corollary of the right to disseminate the resulting recording.**”).
- Ninth Circuit:** see **Fordyce v. City of Seattle**, 55 F.3d 436, 438 (9th Cir. 1995) (**assuming a First Amendment right to record the police**); see also **Adkins v. Limtiaco**, \_\_ Fed. App'x \_\_, No. 11-17543, 2013 WL 4046720 (9th Cir. Aug. 12, 2013) (**recognizing First Amendment right to photograph police**, citing *Fordyce*).
- Eleventh Circuit:** see **Smith v. City of Cumming**, 212 F.3d 1332, 1333 (11th Cir. 2000) (“**The First Amendment protects the right to gather information about what public officials do on public property, and specifically, a right to record matters of public interest.**”).
- The Appellate Division of the Superior Court of New Jersey recognized the existence of such a right** in **Ramos v. Flowers**, Docket No. A-4910-10T3 (N.J. App. Div. Sept. 21, 2012), relying heavily on the First Circuit's reasoning in the *Glik* case.
- The United States Department of Justice has openly stated its position that *the First Amendment protects all U.S. citizens who record the activities of the police in public***, & has intervened in at least one civil rights lawsuit against police officers to support that First Amendment right. See **Sharp v. Baltimore City Police Dep't**, No. 1:11-cv-02888-BEL (D. Md. Statement of Interest filed January 10, 2012).<sup>13</sup>

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13 “Recording Police Officers and Public Officials“ by *Digital Media Law Project*:  
<http://www.dmlp.org/legal-guide/recording-police-officers-and-public-officials>

**The theft of Mr. Byrd's smartphone impeded Mr. Byrd & Ms. Wilson's First Amendment activity via:**

- greatly impairing ability to communicate in order to be able to “get back on their feet” *or* to find legal representation in a timely manner, as the couple now *had no phone*.
- **Preventing their ability to document the subsequent events of the case following the initial civil rights violations on 5-11-2016, thus causing additional evidence which would have been used by the couple to help prove the civil rights violations *had occurred* .**
- Preventing the couples' daily activities involved with operating & maintaining [www.WildWillpower.org](http://www.WildWillpower.org) & supporting websites & publications.

**WHEREAS *Hector Ruiz*, illegally confiscated Mr. Byrd's smartphone in order to steal evidence from the victims of the civil rights violations he was committing, thus seeking to make it more difficult to prosecute him for his actions, & then withheld the smartphone from the couple following the event:**

**Be It Hereby Recognized:**

**Mr. Byrd & Ms. Wilson had the Right to film the event, & Officers violated The First Amendment via the illegal seizure of Mr. Byrd's smartphone.**

## **Mr. Hector Ruiz Violated PENAL CODE 141(b) by this action:**

141. (b) **A peace officer who knowingly, willfully, intentionally, and wrongfully** alters, modifies, plants, places, manufactures, **conceals, or moves any physical matter, digital image, or video recording, with specific intent that the action will result in a person being charged with a crime or with the specific intent that the physical matter, digital image, or video recording will be concealed or destroyed, or fraudulently represented as the original evidence upon a trial, proceeding, or inquiry, is guilty of a felony punishable by two, three, or five years in the state prison.**

(c) This section does not preclude prosecution under both this section and any other law.<sup>14</sup>

### **Other Ways Mr. Hector Ruiz *Obstructed Justice*:**

- **He requested to “deny the release” of both Mr. Byrd and Ms. Wilson for two months until their first court appearance! (see page 203). This indicates *further action was taken by Hector Ruiz to hinder the couples' ability to be able to compile their testimony & build a civil case in a timely manner.***
- **He illegally prevented the couple from returning home by way of threat, thus making it *more difficult* for the couple to gather their belongings & to document the case from the safety of their home.**

“We were bulrushed out of our home via multiple civil rights violations which occurred in a short period of time, each subsequently making it more difficult to prove our rights were violated. Officer Ruiz tried to lock us up for 2 months so we wouldn't have the ability to build a case, & it looks to me like he stole our smartphone in order to hide evidence as he threw us out onto the streets without our belongings.”

- Alexandra Wilson

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<sup>14</sup> PENAL CODE SECTION 132-141 on the “Official California Legislative Information” website:  
<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=00001-01000&file=132-141>



***Why The Plaintiffs Assert  
Kern County Deputies  
violated***

**The Fourteenth Amendment  
via *not* providing  
“equal protection of the laws”  
*to all parties on 5-11-2016 (pages 196-199).***

**The Fourteenth Amendment of The Constitution of The United States reads:**

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the **equal protection of the laws**."<sup>15</sup>

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<sup>15</sup> Library of Congress website, “Primary Documents in American History; *The 14<sup>th</sup> Amendment*”:  
<https://www.loc.gov/rr/program/bib/ourdocs/14thamendment.html>

**WHEREAS** the couple informed the Officers they had lived at 2232 Commercial Ave. for seven months *and* they asserted that they were following “adverse possession procedure as designed” *and* they sought to *present evidence* which officers *prevented the couple from presenting to them* (pages 196-199),

**Be It Hereby Recognized That:**

**Officers *did not* provide “equal protection of the laws” to the parties of:**

1. “Mr. Byrd, Ms. Wilson, & Ms. Smith”, who were following the **CODE OF CIVIL PROCEDURE** sections 315-330
2. Jon & Cheryl Ross who were the 'title holders'.

**Officers chose to protect the rights of title holders without regard & *in direct violation to* to the rights of Mr. Byrd, Ms. Wilson, or Ms. Smith.**

***Why* The Plaintiffs Assert  
Kern County Deputies  
violated**

**The Fifth Amendment**

via ***denying them access to their property*** following the FALSE ARREST & illegal search and seizure; ***there has been no due process of law regarding the property loss.***

**WHEREBY CAUSING**  
**the “unlawful removal of their property” from their home** (*thus violating CODE OF CIVIL PROCEDURE section 1983*).

**The Fifth Amendment of The Constitution of The United States reads:**

**"No person shall be** held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be **deprived of life, liberty, or property, without due process of law**; nor shall private property be taken for public use, without just compensation."<sup>16</sup>

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<sup>16</sup> National Archives *website*, “Bill of Rights *Transcript*”:  
[http://www.archives.gov/exhibits/charters/bill\\_of\\_rights\\_transcript.html](http://www.archives.gov/exhibits/charters/bill_of_rights_transcript.html)

**The couple was prevented from returning home *or* gathering their property under the threat that they would be arrested.**

**The couple was prevented from returning home under the *additional allegation* (besides “trespassing”) that they were “surfacing sewage” (pages 201 & 202) even though *no investigation was performed, & no sewage was present throughout the property* (pages 188-190), & thus *no actual evidence will be able to be produced,***

### ***Definition of ALLEGATION:***

The assertion, declaration, or statement of a party to an action, made in a pleading, setting out what he expects to prove. A material allegation in a pleading is one essential to the claim or defense, and which could not be stricken from the pleading without leaving it insufficient. Code Civil Proc. Cal.”<sup>17</sup>

### **Why Was The Property CONDEMNED?**

*According to both ARIETIS reports Officer Hector Ruiz filed (pages 201 & 202), both WILSON and BYRD were “in violation of Uniform housing code 17.16.620-surfacing sewage”.*

However, according to McGraw-Hill Encyclopedia of Science and Technology, “sewage” is defined as:

"A water-carried waste, *in solution or suspension*, that is intended to be removed from a community. Also known as *municipal wastewater*. It consists mostly of greywater (from sinks, tubs, showers, dishwashers, and clothes washers), **blackwater** (the water used to flush toilets, combined with the human waste that it flushes away); soaps and detergents; and toilet paper.”<sup>18</sup>

**There was *no sewage surfaced or exposed anywhere on the property*. The inspector & Officer Ruiz were referring the “incinerating toilet” (pages 188-190) when citing “surfacing sewage” as the reason for *CONDEMNING the property*, however the incinerating toilet contains *no sewage within its design, which is what Ms. Wilson told both officers*.**

## **The Decision To Condemn The Property Was *Arbitrary & Capricious.***

<sup>17</sup> “Black's Law Dictionary”, 2<sup>nd</sup> Edition on ALLEGATION: <http://thelawdictionary.org/allegation/>

<sup>18</sup> <http://www.accessscience.com/search?q=sewage>

## **“ARBITRARY AND CAPRICIOUS” on USCourts.gov:<sup>19</sup>**

### **IV. REVIEW OF AGENCY DECISIONS**

**The Administrative Procedures Act (“APA”) sets forth standards governing judicial review of decisions made by federal administrative agencies.**

*See Dickinson v. Zurko*, 527 U.S. 150, 152 (1999); *High Sierra Hikers Ass’n v. Blackwell*, 390 F.3d 630, 638 (9th Cir. 2004); *Public Util. Dist. No. 1 v. Federal Emergency Mgmt. Agency*, 371 F.3d 701, 706 (9th Cir. 2004).

**Pursuant to the APA, agency decisions may be set aside only if “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.”**

*5 U.S.C. § 706(2)(A)*; *United States v. Bean*, 537 U.S. 71, 77 (2002); *Gardner v. U.S. Bureau of Land Mgmt.*, 638 F.3d 1217, 1224 (9th Cir. 2011); *Latino Issues Forum v. EPA*, 558 F.3d 936, 941 (9th Cir. 2009); *High Sierra, Hikers Ass’n*, 390 F.3d at 638; *Public Util. Dist. No. 1*, 371 F.3d at 706.[1]

**The arbitrary and capricious standard is appropriate for resolutions of factual disputes implicating substantial agency expertise.**

*See Marsh v. Oregon Natural Res. Council*, 490 U.S. 360, 376 (1989); *Safari Aviation Inc. v. Garvey*, 300 F.3d 1144, 1150 (9th Cir. 2002); *Ninilchik Traditional Council v. United States*, 227 F.3d 1186, 1194 (9th Cir. 2000).

**Review under the standard is narrow and the reviewing court may not substitute its judgment for that of the agency.**

*See U.S. Postal Serv. v. Gregory*, 534 U.S. 1, 6-7 (2001); *Marsh*, 490 U.S. at 378; *Barnes v. U.S. Dep’t of Transp.*, 655 F.3d 1124, 1132 (9th Cir. 2011); *Gardner*, 638 F.3d at 1224; *Amalgamated Sugar Co. LLC v. Vilsack*, 563 F.3d 822, 829 (9th Cir. 2009); *Friends of Yosemite Valley v. Kempthorne*, 520 F.3d 1024, 1032 (9th Cir. 2008); *Ocean Advocates v. U.S. Army Corps of Eng’rs*, 402 F.3d 846, 858 (9th Cir. 2005); *Public Util. Dist. No. 1*, 371 F.3d at 706.[2]

**The agency, however, must articulate a rational connection between the facts found and the conclusions made.**

*See Latino Issues Forum*, 558 F.3d at 941; *Friends of Yosemite Valley*, 520 F.3d at 1032; *Env’tl. Def. Ctr., Inc. v. EPA*, 344 F.3d 832, 858 n.36 (9th Cir. 2003).

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<sup>19</sup> “ARBITRARY AND CAPRICIOUS”, Judicial Review Standards:

[http://cdn.ca9.uscourts.gov/datastore/uploads/guides/stand\\_of\\_review/IV\\_Review\\_AD.html#\\_Toc199132037](http://cdn.ca9.uscourts.gov/datastore/uploads/guides/stand_of_review/IV_Review_AD.html#_Toc199132037)

**The reviewing court must determine whether the decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment.**

*See Marsh*, 490 U.S. at 378; *Ocean Advocates*, 402 F.3d at 859; *Forest Guardians v. U.S. Forest Serv.*, 329 F.3d 1089, 1097 (9th Cir. 2003); *Env'tl. Def. Ctr.*, 344 F.3d at 858 n.36.

**The inquiry, though narrow, must be searching and careful.**

*See Marsh*, 490 U.S. at 378; *Ocean Advocates*, 402 F.3d at 858-59; *Brower v. Evans*, 257 F.3d 1058, 1065 (9th Cir. 2001); *Ninilchik Traditional Council*, 227 F.3d at 1194.

**This court may reverse under the arbitrary and capricious standard only if the agency has relied on factors that Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.**

*See Greater Yellowstone Coalition v. Lewis*, 628 F.3d 1143, 1148 (9th Cir. 2010) (as amended) (relying on *The Lands Council v. McNair*, 537 F.3d 981, 987 (9th Cir. 2008) (en banc), *overruled on other grounds by Winter v. Natural Res. Def. Council*, 555 U.S. 7 (2008)); *Env'tl. Def. Ctr.*, 344 F.3d at 858 n.36; *Brower*, 257 F.3d at 1065.

**Finally, an agency's decision can be upheld only on the basis of the reasoning in that decision.**

*See California Energy Comm'n v. Dep't of Energy*, 585 F.3d 1143, 1150 (9th Cir. 2009); *Snoqualmie Indian Tribe v. F.E.R.C.*, 545 F.3d 1207, 1212 (9th Cir. 2008); *Anaheim Mem'l Hosp. v. Shalala*, 130 F.3d 845, 849 (9th Cir. 1997).<sup>20</sup>

### **Be It Hereby Recognized:**

**The decision to “condemn of the property” was an *ARBITRARY AND CAPRICIOUS* act used primarily to “get the couple off the property and then to keep them off”, & was used to persecute Mr. Byrd & Ms. Wilson, causing them to be deprived of their property without due process of law & thus violating their 5<sup>th</sup> Amendment right.**

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<sup>20</sup> “U.S. Courts for the Ninth Circuit” website on *ARBITRARY & CAPRICIOUS* judicial review procedure: [http://cdn.ca9.uscourts.gov/datastore/uploads/guides/stand\\_of\\_review/IV\\_Review\\_AD.html#\\_Toc199132037](http://cdn.ca9.uscourts.gov/datastore/uploads/guides/stand_of_review/IV_Review_AD.html#_Toc199132037)

### **Be It Hereby Recognized:**

**the unwarranted and undocumented determinations regarding the “surfacing sewage” allegations made by Officer Hector Ruiz, the Kern County Housing Health Inspector were and are **SLANDEROUS**.**

#### **Definition of SLANDER:**

“In torts. **Oral defamation; the speaking of false and malicious words concerning another, whereby injury results to his reputation.** See Pollard v. Lyon, 91 U. S. 227, 23 L. Ed. 308; Fredrickson v. Johnson, 60 Minn. 337, 62 N. W. 355; Ross v. Ward, 14 S. D. 240, 85 N. W. 182, 80 Am. St. Rep. 746; Gambrill v. Schooley, 93 Md. 48, 48 AU. 730, 52 L. R. A. 87, 80 Am. St. Rep. 414; Republican Pub. Co. v. Mosman, 15 Colo. 399, 24 Pac. 1051; Civ. Code Ga. 1895.”<sup>21</sup>

***This Arbitrary and Capricious, Disgusting & Defamatory Allegation By Officer Ruiz & The Health Inspector of “Surfacing Sewage” Was Slander Upon Mr. Byrd & Ms. Wilson's Character.***

***Besides referring to the Citizens with such slanderous words as “transients” (see pages 200-205) & “squatters”, the Officers' actions caused Mr. Byrd, Ms. Wilson, & Ms. Smith to be displaced with such force that they were made to be homeless to “match Officer Ruiz's story”, which was malicious, premeditated, & criminal.***

#### **Definition of **PERSONAL INJURY** on Black's Law Dictionary, 2<sup>nd</sup> Ed. Online:**

“A **non physical injury** that occurs due to wrongful eviction, **slander**, false arrest or by violating the right to privacy of any person.”<sup>22</sup>

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<sup>21</sup> “Black's Law Dictionary”, 2<sup>nd</sup> Edition on SLANDER: <http://thelawdictionary.org/slander/>

<sup>22</sup> “PERSONAL INJURY”, Black's Law Dictionary, 2<sup>nd</sup> Ed. Online: <http://thelawdictionary.org/personal-injury/>

**WHEREAS** the Deputies' *mishandling of the situation & negligence* enabled neighbors Rudy & Liz's decision to *unlawfully remove Mr. Byrd & Ms. Wilson's property from the premises*:

**"Unlawful Removal of Property":**

1983. (a) Where personal property remains on the premises after a tenancy has terminated and the premises have been vacated by the tenant, the landlord shall give written notice to the tenant and to any other person the landlord reasonably believes to be the owner of the property. If the property consists of records, the tenant shall be presumed to be the owner of the records for the purposes of this chapter.

(c) The notice shall be personally delivered to the person to be notified or sent by first-class mail, postage prepaid, to the person to be notified at his or her last known address and, if there is reason to believe that the notice sent to that address will not be received by that person, also to any other address known to the landlord where the person may reasonably be expected to receive the notice. If the notice is sent by mail to the former tenant, one copy shall be sent to the premises vacated by the tenant. If the former tenant provided the landlord with the tenant's email address, the landlord may also send the notice by email.

1984. (a) A notice given to the former tenant which is in substantially the following form satisfies the requirements of Section 1983:

Notice of Right to Reclaim Abandoned Property  
To: \_\_\_\_\_  
(Name of former tenant)  
\_\_\_\_\_  
(Address of former tenant)  
When you vacated the premises at \_\_\_\_\_  
\_\_\_\_\_  
(Address of premises)<sup>23</sup>

<sup>23</sup> Official California Legislative Information *website*: <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=civ&group=01001-02000&file=1980-1991>



**WHEREAS** the actions of Officers Hector Ruiz, Leonard Shin, & *assisting officers & housing inspector* violated:

**United States Code, TITLE 18, U.S.C., SECTION 242**

**Deprivation of Rights Under Color of Law**

*“Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, ... shall be fined under this title or imprisoned not more than one year, or both... if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.”<sup>24</sup>*

“The United States Code is prepared and published by the Office of the Law Revision Counsel (“OLRC”) of the U.S. House of Representatives pursuant to 2 U.S.C. 285b.

Under 1 U.S.C. 204, the matter set forth in a main edition of the Code (*together with its current supplement*) establishes the law prima facie, except that the text of titles enacted into positive law is legal evidence of the law.”<sup>25</sup>

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<sup>24</sup> The United States Department of Justice *website* on DEPRIVATION OF RIGHTS UNDER COLOR OF LAW: <https://www.justice.gov/crt/deprivation-rights-under-color-law>

<sup>25</sup> Office of Law Revision Counsel *website of the* United States House of Representatives, on “*ABOUT THE UNITED STATES CODE AND THIS WEBSITE*”:  
[http://uscode.house.gov/about\\_code.xhtml;jsessionid=E2AAC70F7008C47B82EEC861674D5200](http://uscode.house.gov/about_code.xhtml;jsessionid=E2AAC70F7008C47B82EEC861674D5200)

**WHEREAS** “two or more persons” *were involved in the Deprivation of Rights, the men also violated:*

**§1985. Conspiracy to interfere with civil rights (1) & (2):**

**(2) Obstructing justice; intimidating party, witness, or juror**

**If two or more persons in any State** or Territory **conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully,** or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; **or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State** or Territory, **with intent to deny to any citizen the equal protection of the laws,** or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

**(3) Depriving persons of rights or privileges**

**If two or more persons in any State** or Territory **conspire** or go in disguise on the highway or **on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws,** or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; **in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.**<sup>26</sup>

<sup>26</sup> Office of Law Revision Counsel *website* on Title 42 CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS: <http://uscode.house.gov/view.xhtml?req=conspiracy+to+interfere+with+civil+rights&f=treesort&fq=true&num=4&hl=true&edition=prelim&granuleId=USC-prelim-title42-section1985>

**Mr. Byrd and Ms. Wilson Were Caused  
Sustained Personal Injuries Caused By  
Several Instances of Officer Misconduct:**

**WHEREAS** being kidnapped, arrested, & suffering false imprisonment caused the couple stress, anxiety, & mental anguish,

**Definition of KIDNAPPING, *Black's Law Dictionary*:**

In American law, this word is seldom, if at all, applied to the abduction of other persons than children, & the intent to send them out of the country does not seem to constitute a necessary part of the offense. **The term is said to include false imprisonment** (*see FALSE ARREST on page 254*). 2 Bish. Crim. Law<sup>27</sup>

**WHEREAS** being suddenly *put out onto the streets & then threatened with another FALSE ARREST if they returned home* caused Mr. Byrd, Ms. Wilson, & Ms. Smith to become *homeless, which caused undue sustained personal injuries and including months of suffering,*

**WHEREAS** the illegal search & seizure of Mr. Byrd's smartphone caused him **SUSTAINED PERSONAL INJURY** to his Freedom of Speech, & impaired the couples' ability to conduct basic activities related to their welfare & safety following being suddenly “put out onto the streets”,

**Be It Hereby Recognized:**

Mr. Byrd & Ms. Wilson have sustained multiple *personal injuries* caused by civil rights violations which have collectively caused endangerment to their *lives, safety, & well-being*, & *also* which have caused loss of both personal property *and* property belonging to their *organization* they had *working on for many years, as well as undue suffering from stress, anxiety, & mental anguish.*

**Re: “Proper Protocol”**

The Deputies should have viewed Mr. Byrd & Ms. Smith's paperwork & engaged in a civil conversation with Mr. Byrd, Ms. Smith, & Ms. Wilson in order to learn more about the process they were following, & then *after performing research*, if the residents at 2229 Angler Ave. complained again, they should have informed them that they “have the right to be there”. Without an *EVICTION* filed by the title holder, Officers should have honored the process they were following & given “equal protection of the laws” & thus protected Ms. Smith *and* Mr. Byrd's Right to perform a lawful Claim on a physically abandoned & neglected property.

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<sup>27</sup> **Black's Law Dictionary on KIDNAPPING:** <http://thelawdictionary.org/kidnapping/>