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ENDORSED

July 7, 1970

GEORGE E. FOWLES, Clerk

P. HOLLAND

DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA CLARA

THE BOARD OF TRUSTEES OF THE LELAND
STANFORD JUNIOR UNIVERSITY, a body
having corporate powers,

Plaintiff,

vs.

ALAN C. ALHADEFF, JOHN WALLACE AVERY,
ANNE CLAUDIA BAUER, WILLIAM C. BLACK,
RICHARD STEVEN BOGART, BARRY LINCOLN
CAPRON, ROBERT ARDEN DELFS, ARTHUR M.
EISENSON, JEANNE TOBY FRIEDMAN,
BARBARA ANN GOLDIE, WILLIAM WELSH
GRAHAM, HALLAM CALVIN HAMILTON, MARY
ANSORGE HANSON, STEPHEN JOHN HEISER,
MARC DAVID HELLER, KRISTIN DANA HIND,
SUSAN LEE HUDGENS, RICHARD BRUCE LEVIN,
MICHAEL MATTHEW MENKE, JOHN C. PERRIN,
NEAL OKABAYESHI, DALE POLISSAR, DAVID
FRANCIS PUGH, PAUL RUPERT, AMANDA GWYN
RUTHERFORD, JAMES ELLIS SHOCH, JOHN
FREDERICK SHOCH, STEPHEN S. SMITH, GUY
DOUGLAS SMYTHE, DON PHILIP STUART,
PHILIP J. TROUNSTINE, MICHAEL DAVID
VAVTER, DORON WEINBERG, MICHAEL M.
WEINSTEIN, MARC ALLAN WEISS, SCOTT
JOHNSON, MARJORIE FAYE COHN, FRED
COHEN, LARRY CHRISTIANI, BARBARA AVIS
HYLAND, ROBERT CULLENBINE, RUSSELL LEE
WINNER, JOSEPH JOHN BEER, CHARLES DAVID
GRANIERI, SUSAN ANN LAWYER, PAUL BERNSTEIN,
ROBERT P. WALTER, ALAN RADER, VIRGINIA
ANNE LINSLEY, JACK PETER HARTOG, ROBERT
ALAN BOWS, IRVIN A. BUSSE III, PHAIR
TERRY COREY, COLLEEN GERSHON, TIMOTHY
R. HAIGHT, DIANE LARATNE HERMANN, LESLIE
BONITA HILL, WILLIAM JOHN KLINGEL,
BARBARA EVANS LEE, DAVID CRAIG LONG,
ROBERT M. O'DONNELL, JR., STEWART C.
PURKEY, LEONARD MARK SLEGEL, JAMES
NOLAN SNYDER, LAWRENCE F. SNYDER,

No. P16419

221250

MEMORANDUM
AND ORDER

1 GEOFFREY VIRCENT WHITE, RICHARD WILBUR
2 ZDARKO, BRIAN PHILIP COX, ANDREW PHILIP
3 GOULD, PENNY TERESA HILL, JEFFREY
4 HOWARD KANE, MICHAEL PAUL LINDENMANN,
5 BRIAN EDWARD SACKETT, RALPH L. JACOBSON,
6 SAUL ARNOLD MILLER, WILLIAM DICKSON
7 KELLY, REBECCA JOAN ERVIN, ANDREA DANI
8 NASHER, NANCY ELLEN PIERCE, PETER REINER
9 SAMELSON, MICHAEL GILFIX, DOE NINE, DOE
10 TWELVE, DOE SEVENTEEN, and DOES FIFTY-
11 TWO THROUGH FIVE HUNDRED, inclusive,

12 Defendants.

13 Five Stanford students have been charged with a number
14 of contempts of Court, based upon their active participation in
15 four separate incidents on the campus of Stanford University during
16 the early part of April 1970. The foundation for the alleged con-
17 tempts is a preliminary injunction which was issued by the
18 Honorable Stanley R. Evans on May 16, 1969 against 81 named
19 individuals including Leonard Mark Siegel, John Frederick Shoch
20 and Irvin A. Busse and all persons aiding and abetting them.

21 Among other restrictions the injunction specifically
22 prohibited the entering or occupying of any University building,
23 classroom, auditorium or office for the purpose and with the
24 effect of disrupting classes or meetings or with the knowledge that
25 such conduct was so disruptive.

26 These four incidents grew out of activities initiated by
27 the "Off ROTC" movement student leaders. At the risk of being
28 accused of compartmental thinking, in this proceeding the Court
29 cannot be concerned with the University's policies, its resources
30 for airing student grievances or the lack of them, or the merits,
31 if any, of the activities pursued by this campus group. In a
contempt proceeding, it is the Court's function only to rule upon
the alleged contempts of its own orders and not to weigh or judge
the merits of the policies of Stanford University or its student
groups. In ascertaining whether or not there were contempts of

1 Court, it is necessary, of course, to resolve the conflicts in
2 evidence relating to these incidents.

3 A contempt of Court exists when there is a valid Court
4 order, knowledge of the same and an intentional disobedience
5 thereof. 12 Cal. Jur. 2d 37, 41. A contempt also occurs when
6 the acts alleged either show an intent to wilfully disregard the
7 Court order or there is demonstrated a complete lack of concern
8 thereof. Contempt proceedings are founded upon the necessity for
9 obedience to the Court's valid orders. In the final analysis,
10 our entire Court system of justice would be useless and futile if
11 faithful adherence to its lawful orders was not required. In
12 rendering its decision, the Court is concerned and mindful only
13 of the fact that when any proper order is made adherence is
14 required of all persons subject thereto, without exceptions. The
15 Court is cognizant of the fact that the alleged contemnors may
16 erroneously hold the view that in so doing the Court is merely an
17 arm of the University.

18 The Court finds and determines that each of the alleged
19 contemnors had knowledge of the injunction and of its terms. As
20 to the named contemnors Siegel, Shoch and Busse, such knowledge
21 is admitted. As to the alleged contemnors Sweeney and Weiss, who
22 of course, can only be guilty of aiding and abetting a named
23 individual who was specifically enjoined, knowledge of the injunc-
24 tion was apparent not only because the injunction was published in
25 the Stanford Daily and widely disseminated and discussed, but
26 because it was read to them on prior occasions and it was further
27 admitted that they had checked the injunction to see if their names
28 were contained thereon.

29 • In determining whether or not the alleged contemnors are
30 guilty of contempt of Court, proof beyond a reasonable doubt is
31 required because of the fact that the consequences are punitive in

1 nature if guilt is determined. Therefore, wilful active partici-
2 pation is required rather than a mere passive presence in a group.

3 Turning now to the four events which will be discussed
4 in chronological sequence, the Court finds:

5 EVENT NO. 1

6 On April 2, 1970, 75 to 100 students involved in the
7 "Off ROTC" movement entered the ROTC building and, in particular,
8 Major Cleo Kirkland's class on Military Justice. By reason of
9 their numbers and the limitation of seats available, there was a
10 considerable discussion with Major Kirkland relative to their
11 right to stay and audit the class. The Court has some doubts as
12 to the motivation of these students in attending this class. Their
13 single stated goal was to remove the ROTC program from the campus.
14 However, they also assert that they were there seeking to learn
15 what the course had to offer. In any event, Major Kirkland was
16 able to clear the classroom of students who could not occupy a
17 seat and he commenced to teach. A film on military justice was
18 shown during which those non-cadet students asked rhetorical
19 questions, joked, laughed and were disruptive. It was obvious
20 that they were there for the sole purpose of heckling the instruc-
21 tor. They occupied the class with the knowledge and effect that
22 their conduct was disruptive. This was called to their attention.

23 Of the contemnors, Irvin Busse and Janet Weiss were in
24 attendance. Busse had left when it was finally determined that
25 the class would not start until those without seats were removed.
26 He was not present during the most disruptive activities after the
27 class started. Janet Weiss was present and participated. However,
28 she is not named in the injunction and can only aid and abet some-
29 one who was. As there was no proof that anyone so named did
30 participate in those activities, it must be determined that she is
31 not guilty of contempt for that incident nor is Irvin Busse so
guilty.

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EVENT NO. 2

On April 3, 1970, a meeting of the Academic Council was scheduled to commence at 4:15 p.m. This was a closed meeting and the participating students knew it was closed to non-members of the Academic Council. While there may be some question as to the permission given to teaching assistants and other faculty members to attend, the Court is not so concerned with the matter of their entering the meeting as with the conduct which occurred thereafter.

Actively participating in the events which followed were Leonard Mark Siegel and Janet Weiss. Although it was stated by Mr. Siegel that the students were not there to disrupt the meeting, it is obvious that their presence and their conduct was a violation of the injunction since it had the effect of disrupting the conduct of the business of the University in that the meeting could not commence as scheduled. Siegel, for example, usurped the podium, speaking into the microphone and rudely and illegally attempted to call the meeting to order. The other students by their singing and chanting, their presence on the platform including the wearing of a pig's head by one of them, created an obvious disruption. Furthermore, this fact was called to their attention by the reading of a statement that their conduct was disruptive and the injunction was also read. At that point most of the students left except Janet Weiss who remained, spoke into a microphone and accused the Council of being a rubber stamp for University policies. The Court finds that Leonard Mark Siegel and Janet Weiss were guilty of a contempt of court in that Leonard M. Siegel was a person who was enjoined and Janet Weiss aided and abetted his conduct.

EVENT NO. 3

On the afternoon of April 7, 1970, a considerable number of students entered the ROTC building as part of a mill-in,

1 trespassing into private offices, intruding into business offices
2 and forcing open a classroom door against the wishes of an
3 instructor. There was drum playing in the hall, general confusion
4 and an obvious violation of the Court injunction which requires
5 no further discussion. Actively participating in these events
6 was Leonard Mark Siegel, Michael Sweeney and Janet Weiss. Siegel,
7 a named defendant, was aided and abetted by Michael Sweeney and
8 Janet Weiss.

9 EVENT NO. 4

10 On the evening of April 7, 1970, an ROTC class was
11 scheduled away from the ROTC building and was conducted by Captain
12 Casey, who had guest speakers present. After the class had
13 started and had been underway for sometime, a large number of the
14 "Off ROTC" movement members burst into the classroom over the
15 physical objection of Captain Casey. Being unable to persuade
16 them to leave, Captain Casey evoked a promise from them that they
17 would allow the class to proceed. But, in violation of their
18 promise, certain members of the class affixed posters on the walls
19 and other places, sailed paper airplanes across the room, squeaked
20 chairs, talked loudly, applauded inappropriately and caused such a
21 disruption that the policy against disruption and the injunction
22 was ultimately read. During the reading, the lights were flashed
23 off and on, adding to the confusion. Actively participating in
24 entering the classroom over the objection of Captain Casey and in
25 some of these activities was John Frederick Shoch, a named
26 defendant, and Michael Sweeney, who aided and abetted him.

27
28 Evidence was introduced during the hearing to show that
29 the alleged contemnors and their fellow Off ROTC movement students
30 were entitled to enter ROTC classes because it was the beginning
31 of a term and they were also entitled to audit these classes. Even

1 if this is true, the Court is convinced that their conduct was
2 grossly inappropriate. While certain classes may attract a larger
3 number of students than existing seating can accommodate, certainly
4 it is unusual, to say the least, to have such students enter en
5 masse, noisily, aggressively and challengingly. It is further
6 unusual for such students to rudely interrupt the instructor, or
7 to angrily challenge the merits of his course. There was obviously
8 no willingness to listen or to understand, but only a desire to
9 challenge the teacher and to try to convert the other students to
10 their way of thinking.

11 Returning to a discussion of the matter of contempt, it
12 is clear that the injunctive Court order was proper, within the
13 Court's jurisdiction and power, known by the contemnors and that
14 there were violations resulting in a contempt of Court for those
15 named contemnors as hereinabove stated.

16 It is now relevant to discuss the matter of the entrap-
17 ment and estoppel defenses which have been raised. This defense
18 is based upon the theory that Stanford University officials and
19 the students have certain undefined rules of procedure regarding
20 irresponsible conduct. It suggests that the tactical actions of
21 the activist students comprise a sort of game in which they would
22 be permitted to engage in improper conduct until the University
23 formally notified them that they were disruptive and in violation
24 of the Court's injunction. It is true that Stanford University,
25 in seeking to enforce its own student disciplinary policies, has
26 adopted the requirement that the disruption policy should be read
27 by a teacher or other official ~~in order~~ before student disciplinary
28 court proceedings would be invoked. For some reason, the University
29 likewise adopted the practice of threatening Court proceedings by
30 reading to the disruptive students from a sheet which stated that
31 those who were disrupting the meeting were risking the legal

1 consequences of being charged with contempt. However, it is not
2 necessary that the University file charges for every disruptive
3 action as an alleged contempt of Court. To follow the contemnors'
4 theory, no contempt could occur unless there was a prior warning
5 nor, if a warning was once given, could a subsequent contempt occur
6 without a repetition thereof. It is this Court's view that when
7 the University advised the contemnors that they ran the risk of
8 contempt proceedings, it was for the purpose of emphasizing the
9 nature of their disruptive conduct and not by way of a threat that
10 future continued conduct would result in a contempt. It is not
11 necessary for the University to continually cry wolf in these
12 situations. While it would have been more appropriate perhaps for
13 the University to have charged contempts on prior occasions, such
14 failure did not preclude them from bringing such charges on these
15 four. The University's conduct has more bearing upon mitigation
16 and punishment than on guilt.

17 Inherent in this defense is the previously mentioned
18 concept which aligns the Court as another tool of the University.
19 The University has its own legal machinery to punish students who
20 violate campus policies. A violation of the injunction, while it
21 may arise out of the same act, is a separate violation of a Court
22 order and has nothing to do with the University's policies.

23 In recapitulation therefor, the Court finds:

- 24 1. Leonard Mark Siegel was in contempt for the events
25 of April 3, 1970 at the Academic Council meeting and the afternoon
26 of April 7, 1970 at the ROTC building.
- 27 2. John Frederick Shoch is in contempt for his partici-
28 pation in the events of the evening of April 7, 1970.
- 29 3. Michael Sweeney is in contempt for the events of the
30 afternoon of April 7 and the evening of April 7.
- 31

1 4. Janet Weiss is in contempt for her participation in
2 the events of April 3, 1970 at the Academic Council and the after-
3 noon of April 7, 1970 at the ROTC building.

4 5. Irvin Busse is not in contempt of Court.

5 The Court sets Friday, the 17th of July, at 2:00 p.m.
6 in Courtroom 1 of the Palo Alto Branch of the Superior Court as
7 the time and place for sentence.

8 DATED: July 7, 1970.

9
10 GEORGE H. BARNETT

11 Judge of the Superior Court



The foregoing instrument is a
correct copy of the original
on file in this office.

DEC 22 1970

GEORGE E. FOWLES, Clerk

County Clerk and ex-officio Clerk of the
Superior Court of the State of California
in and for the County of Santa Clara.

By [Signature] Deputy

The foregoing instrument is a
correct copy of the original
on file in this office.

JAN 25 1971

GEORGE E. FOWLES, Clerk

County Clerk and ex-officio Clerk of the
Superior Court of the State of California
in and for the County of Santa Clara.

By [Signature]

