

1 Joseph Ryan  
2 Defendant  
3 In Pro Per  
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7 SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF SAN  
8 DIEGO, EAST COUNTY DIVISION

9 THE PEOPLE, ) Case No:C287588  
10 Plaintiffs, )  
11 vs. ) DEFENDANT'S BRIEF IN SUPPORT OF  
12 JOSEPH RYAN ) PROPOSED JURY INSTRUCTIONS  
13 Defendant ) Next Hearing: August 23, 2009  
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I. NOTICE OF PLEADING

29 To The Above Entitled Court, and to The District Attorney of  
30 San Diego County, California; Please take note that this is  
31 defendant's brief in support of defendant's proposed jury  
32 instructions. This brief is supported by the attached memorandum of  
33 points and authorities; and any other, relevant oral arguments or  
34 material that the defendant may properly address or properly submit  
35 to the court when the hearing on this matter is held.

36 Respectfully submitted under penalty of perjury by Defendant in  
37 Pro per, Joseph Ryan

38 Joseph Ryan

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II. SUPPORTING MEMORANDUM

THIS COURT SHOULD RULE THAT DEBATE WAS A 'POLITICAL MEETING'  
AS THAT TERM IS DEFINED IN ELECTIONS CODE SECTION 18340; SINCE THE  
PLAIN MEANING OF THE TERMS IN QUESTION, AND ALL EVIDENCE DEDUCED AT  
TRIAL BY DEFENDANT AND PROSECUTOR INDICATES UNEQUIVOCALLY THAT THE  
DEBATE IN QUESTION WAS A 'POLITICAL MEETING'

A "political meeting" (section 18340 of the Elections Code) is  
described in section 18340 as one where 1) electors  
2) assemble  
3) to consider  
4) public questions

*See California Elections Code section 18340.*

In *People v Ryan*, the event was a debate. An elector is  
defined as a person who is "a qualified voter . . .". *See Gilbert's  
Pocket Size Law dictionary (1997), pg. 97.* A debate between  
congressional voters would - by its very nature - attract a crowd  
made up of persons who are qualified to vote. Not many persons would  
be interested in attending such an event if they could not act upon  
the information received from candidates who answered questions at  
the event.

1           **IF A DEBATE BETWEEN CONGRESSIONAL CANDIDATES IS NOT A**  
2 **'POLITICAL MEETING' - DUE TO IMPURITY OF CROWD-MEMBERS STATUS AS**  
3 **'ELECTORS' - THAN NO MEETING COULD EVER QUALIFY AS A 'POLITICAL**  
4 **MEETING'**

5           The legislature couldn't have possibly intended that any  
6 meeting could only qualify as a 'political meeting' if each and  
7 every person present on the premises where a meeting might be held  
8 was verified to be a registered voter. The presence of one non-  
9 voting janitor, or the presence of any one person in the room who  
10 forgot to change their address at the register lately, could  
11 eviscerate the rights of meeting participants, and leave them with  
12 little guidance regarding the boundaries of the law (as dictated by  
13 the type of meeting at question). It would not be remotely possible,  
14 at a meeting of any type, let alone where three-hundred people  
15 listen to congressional candidates to verify or guarantee every  
16 persons voter-registration was correct, unless you had computers  
17 hooked up to the registrar on-site, and every person entering the  
18 meeting was thoroughly investigated by election officials.

19           The most obvious, and logical way to 'test' whether or not a  
20 meeting is a place where electors are assembling, is to look at the  
21 purpose of the meeting and how that purpose affects who would attend  
22 the event. In cases where no evidence exists to the contrary (like  
23 situations where a detailed list of meeting attendees included their  
24 voter-registration status showing they were not 'electors'), 'the  
25 purpose of the event' would serve as the most reliable indicator  
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1 regarding the voter-registration status of meeting participants. The  
2 legislature must have desired that a meeting where most persons are  
3 'electors' - who have assembled for a distinctly political reason -  
4 would be what they termed a "political meeting". See *Cal. Elec. Code*  
5 §18340. Any other conclusion is contrary to logic.  
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8 **A DEBATE IS AN EVENT WHERE QUESTIONS ARE CONSIDERED. UNREFUTED**  
9 **EVIDENCE DEDUCED AT TRIAL SHOWS POLITICAL QUESTIONS WERE CONSIDERED**  
10 **AT THE EVENT, AND THE QUESTIONS WERE GATHERED FROM MEMBERS OF THE**  
11 **PUBLIC WHO ASSEMBLED AT THE EVENT SO THEY COULD CONSIDER PUBLIC**  
12 **QUESTIONS**

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14 Two witnesses heard at the trial of this matter (Mike Cully  
15 and Steve Bosh), testified that the event involved the consideration  
16 of public questions by those assembled in the theatre that night.  
17 One witness was the person acting as the main organizer for the  
18 Chamber of Commerce and the other was the debate's moderator. The  
19 witnesses confirmed the event was expected to attract 'electors',  
20 who submitted questions for the moderator's use. The prosecution did  
21 not present one bit of evidence to refute either of the witness's  
22 descriptions of the event.  
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1           **TYPE OF 'MEETING' REFERRED TO IN SECTION 403 DOES NOT INVOLVE**  
2 **INQUIRY INTO ELEMENTS OF SECTION 18340 DETAILING DIFFERENT WAYS**  
3 **ELECTIONS CODE 18340 CAN BE VIOLATED**

4           *The plain language of Penal Code Section 403 indicates that the*  
5 *language contained within Elections Code section 18340 that is*  
6 *incorporated into penal Code section 403, is only the language that*  
7 *describes a "political meeting" (Title of Section 18340). See Cal.*  
8 *Penal Code §403, and Cal. Elec. Code § 18340. That language*  
9 *indicates that a "political meeting" is any 'public meeting where*  
10 *electors assemble to consider public questions'. Section 403 does*  
11 *not mention incorporation of any other language contained in*  
12 *Elections Code section 18340 that does not describe a type of*  
13 *'meeting'. See Cal. Penal Code §403, and Cal. Elec. Code § 18340.*

14  
15           **JURY INSTRUCTIONS MUST INCLUDE NECESSARY LAW SUPPORTED BY**  
16 **EVIDENCE ADMITTED AT TRIAL**

17           In *People v. St. Martin*, a California Appeals Court ruled that  
18 "The trial court has a duty to instruct the jury on every principle  
19 of law necessary to decide the case, including defenses". *People v*  
20 *St. Martin (1970) 1 C3d 524, 531, 83 CR 166; People V. Russell*  
21 *(2006) 1144 Ca.4<sup>th</sup> 1415, 1424, 51 CR3d 263.*

23           In this matter (*People v Ryan*), the standard CALJIC  
24 instructions submitted by the prosecution (CALJIC 16.225) do not  
25 contain material necessary to alert the jury to the fact that they  
26 need to make an initial inquiry into whether the meeting in question  
27 was a church service, a standard type meeting - like a pancake  
28 breakfast or a football game - or a "political meeting"; since Penal

1 code section 403 states that it is not applicable to church services  
2 or political meetings. See CALCRIM 16.225, and Cal. Penal Code §403.  
3

4 **IN RE KAY, DID NOT INVOLVE A 'POLITICAL MEETING', AND IN KAY,**  
5 **NATURE OF MEETING WAS NOT IN DISPUTE. KAY INVOLVED A REGULAR SECTION**  
6 **403 TYPE MEETING WITH SLIGHT POLITICAL OVERTONES, WHERE NO PUBLIC**  
7 **QUESTIONS WERE BEING CONSIDERED.**  
8

9 In, *Kay*, the court acknowledged that, where a trial court is  
10 attempting to "effectuate section 403 within constitutional limits",  
11 "the nature of the meeting necessarily plays a major role.". In  
12 *Kay*, the court was not faced with a situation where the nature of  
13 the political meeting was in doubt.  
14

15 In *Kay*, the defendants did not assert that the function was  
16 the type of meeting described in section 18340 of the elections code  
17 (a public meeting where electors assemble to consider public  
18 questions); therefore CALJIC 16.225 jury instructions, which are  
19 closely modeled upon the application of *Kay's* facts - which  
20 concerned a 4<sup>th</sup> of July picnic in a town's park, where a congressman  
21 who was up for election the following year happened to speak - are  
22 not applicable - without adjustment - for use where the facts  
23 indicate that the 'meeting' in question was a 'candidate's forum'  
24 for persons seeking federal offices, held 13 days before an  
25 election; and where the vast majority of the persons at the event  
26 were likely 'electors' who were invited to a public event, and who  
27 had assembled to consider public questions. *In Re Patrick Thomas*  
28

1 *Patrick Kay* 1 Cal. 3d 930 at 946, 464 P.2d 142 at 152; 83 Cal. Rptr.  
2 686 at 696.

3  
4           **APPLICATION OF SECTION 403 IN THIS MATTER OF PEOPLE V RYAN**  
5 **REQUIRES FURTHER NARROWING OF ITS APPLICATION THAT RECOGNIZES THE**  
6 **NATURE OF THE MEETING IN PEOPLE V. RYAN DIFFERS THAN THE MEETING AT**  
7 **ISSUE IN THE MATTER OF *IN RE KAY***

8  
9           The nature of the meeting at issue in *Kay* (a picnic in a park,  
10 with some political overtones) does not raise as many First Amendment  
11 issues as the meeting at issue in the present case (a debate);  
12 therefore, the narrowing of the application of 403 must be further  
13 accomplished for the statute to be applicable here.  
14

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16           **CALJIC 16.225 INSTRUCTIONS DO NOT CONTAIN SUFFICIENT MATERIAL**  
17 **BECAUSE NEVER INTENDED TO BE USED IN SITUATIONS CONCERNING PUBLIC**  
18 **MEETINGS WHERE ELECTORS ASSEMBLE TO CONSIDER PUBLIC QUESTIONS**

19           The court in *In re Kay*, did require that the trial court  
20 adjust its application of *section 403* based upon the existence of  
21 First Amendment issues, but it did not issue a decree (to the trial  
22 court) that encompassed facts where the meeting in question is of  
23 the type described in elections Code 18340; because section 403 does  
24 not apply to meetings of the type described in *Elections Code*  
25 *section 18340*. See *Cal Elec. Code §18340*.  
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1           **JURY MUST BE ALERTED TO THRESHHOLD TYPE-OF-MEETING INQUIRY**  
2 **WHERE FACTS INDICATE TYPE-OF-MEETING IS AT ISSUE, OR BURDEN OF PROOF**  
3 **WILL BE PLACED ON DEFENDANT IN UNCONSTITUTIONAL MANNER**

4           Concerning cases involving First Amendment rights, where the  
5 burden of proof has been assigned to the defendant by statutory  
6 presumption, the court in Castro said that "The peripheral rights  
7 recognized by the Supreme Court are not merely substantive." *Castro*  
8 *v Superior Court*, 9 *Call.App.3d* 675 at 690, 88 *Cal. Rptr.* 500 at  
9 511. And the court went on to comment about the allocation of the  
10 burden of proof on an element of the charge, "where particular  
11 speech falls close to the line separating the lawful from the  
12 unlawful", "The possibility of mistaken factfinding-inherent in all  
13 litigation will create the danger that the legitimate utterance will  
14 be penalized." "It can only result in a deterrence of speech which  
15 the constitution makes free." *Castro v Superior Court*, 9 *Call.*  
16 *App.3d* 675 at 690, 88 *Cal. Rptr.* 500 at 518.

17           People v Ryan involves a matter of speech that some observers  
18 might opine, "falls close to the line separating the lawful from the  
19 unlawful"; yet the language contained in section 403 concerning  
20 *Elections Code section 18340* - that acts as a threshold to the  
21 defendant's prosecution - has been left out of *CALCRIM 16.225*.

22           Presumably, the jury could be alerted to the threshold  
23 requirements existence, by an instruction that set-up the threshold  
24 requirement as a defense; but that would effectively switch the  
25 burden of proof to the defendant.  
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1           DISTRICT ATTORNEYS INSISTENCE ON PROSECUTING DEFENDANT USING  
2 PENAL CODE 403, WHERE EVIDENCE INDICATES IT IS NOT APPLICABLE TO THE  
3 MEETING IN QUESTION, PUTS TYPE-OF-MEETING AT ISSUE (IF MEETING-TYPE  
4 INQUIRY TO BE DECIDED BY JURY)

5           Penal Code 403 is not normally applicable to 'political  
6 meetings', but the use of *Penal Code 403* the defendant for conduct  
7 that occurred at a 'political meeting', creates serious questions  
8 about whether the jury should be allowed to determine this matter;  
9 however, if they are allowed to hear this matter, they must be  
10 alerted to determine what type of meeting is at issue, before they  
11 apply other elements of the charge to the defendant's conduct.

12  
13           **SECTION 403 CAN ONLY BE APPLIED IN CONSTITUTIONAL MANNER IF**  
14 **JURY INSTRUCTIONS SET-UP THRESHHOLD REQUIREMENT AS ELEMENT OF**  
15 **OFFENSE CHARGED**

16           The Court in *Castro* noted that, "If a state law, enforced by  
17 applicable state procedures, does not show the necessary sensitivity  
18 to freedom of expression, [citation omitted] it must fall" (*Castro v*  
19 *Superior Court*, 9 *Call.App.3d* 675 at 691, 88 *Cal. Rptr.* 500 at 512);  
20 therefore section 403 can only be applied in a manner in conformity  
21 with the constitution, if the threshold requirements contained in PC  
22 403 are expressly incorporated into the jury instructions given the  
23 jury in this matter (*People v Ryan*).

1           **ANY JURY INSTRUCTION THAT DOES NOT INCLUDE THRESHOLD TYPE-OF-**  
2 **MEETING REQUIREMENT RENDERS APPLICATION OF STATUTE IN PEOPLE V RYAN**  
3 **UNCONSTITUTIONAL FOR OVERBREADTH**

4           Where the court inquires in to whether a statute like section  
5 403 has been narrowed sufficiently to withstand an overbreadth  
6 challenge, the test is whether the statutory language, as narrowed  
7 by any judicial decision" such as a jury instruction, "encompasses  
8 within, conduct which is protected by the First Amendment." *Castro v*  
9 *Superior Court, 9 Call.App.3d 675 at 700, 88 Cal. Rptr. 500 at 518.*  
10 In applying these standards the nature of the meeting necessarily  
11 plays a major role. [citations omitted]. The customs at political  
12 conventions may countenance prolonged, raucous, boisterous  
13 demonstrations as an accepted element of the meeting process;  
14 similar behavior would violate the customs of usages of a church  
15 service. Here, a jury instruction that does not contain the type-of-  
16 meeting threshold requirement, could lead the jury to make an  
17 erroneous decision, by finding his speech to be criminal, under an  
18 inapplicable standard.

19  
20           **CALJIC DEFINITION OF THE TERM 'WILFULL' IS NOT APPLICABLE WHERE**  
21 **FIRST AMENDMENT RIGHTS ARE AT STAKE**

22           CALJIC 1.20, which is referenced at the bottom of CALJIC  
23 instruction 16.225, defines 'wilfully' as "with a purpose or  
24 willingness to commit the act or to make the omission in question."  
25 See *CALJIC 16.225, and 1.20*. However, commenting in a case where  
26 rights guaranteed by the federal constitution were at stake, the  
27 Court said "To avoid unconstitutional vagueness, willful element of  
28 federal statute prescribing the deprivation of constitutional rights

1 . . . interpreted to require . . . "specific intent". *In Re Patrick*  
2 *Thomas Patrick Kay* 1 Cal. 3d 930 at 946, 464 P.2d 142 at 152; 83  
3 Cal. Rptr. 686 at 696.

4 To illustrate the point, the court in *Castro* said, "The  
5 addition, in the statute, of the word 'wilfully', merely 'implies a  
6 purpose or willingness to commit the act, and although it does not  
7 require an evil intent, it implies that the person knows what he is  
8 doing and is a free agent.' [citation omitted]. Literally, it is  
9 thus apparent that the United States Supreme Court must have  
10 willfully disturbed' the public schools affected by its holding in  
11 *Brown v Board of Education* [citations omitted]; *Castro v Superior*  
12 *Court*, 9 Call.App.3d 675 at 701, 88 Cal. Rptr. 500 at 51.

13  
14 **COURT IN KAY RECOGNIZED NEED TO APPLY PRINCIPLES OF SPECIFIC**  
15 **INTENT TO WILFULLNESS INQUIRY, AND THEN APPLIED ITS FINDINGS TO**  
16 **HOLDING OF CASE**

17 In *Kay*, the Court recognized the role federal constitutional  
18 law plays where a state's statutory scheme regulates speech. "We  
19 initially recognize that in analyzing the application of section 403  
20 to the facts of the case, and, more generally, to comparable  
21 situations, we must be guided by the constitutional doctrines  
22 governing statutory regulations affecting first amendment rights".  
23 *In Re Patrick Thomas Patrick Kay* 1 Cal. 3d 938, 464 P.2d 142 at 146;  
24 83 Cal. Rptr. 686 at 690.

25 The court in *Kay* applied those principles when it analyzed the  
26 application of an intent element that required the prosecutor to  
27 prove general intent. In *Kay* the Court found that "No evidence  
28 adduced at trial supported the conclusion that petitioners intended

1 to substantially impair the conduct of the meeting", and the court  
2 based its finding on the fact that "Defendants may well have been  
3 attempting only to express a particular political point of view in a  
4 peaceful manner appropriate to the occasion." *In Re Patrick Thomas*  
5 *Patrick Kay 1 Cal. 3d 930 at 946, 464 P.2d 142 at 153; 83 Cal. Rptr.*  
6 *686 at 697.*

7 The court in *Kay* further addressed issues involving intent  
8 where First Amendment rights are at stake and noted that "criminal  
9 provisions similar to section 403 have generally been held  
10 inapplicable to one who breaches a meeting rule in the good faith  
11 belief that it is invalid. Courts have reasoned that the legislature  
12 could not have intended that disputes about meeting or  
13 organizational rules or the power or authority of a chairman or  
14 other official be resolved by means of a criminal prosecution.  
15 [citations omitted]. *In Re Patrick Thomas Patrick Kay 1 Cal. 3d 930*  
16 *at 946, 464 P.2d 142 at 153; 83 Cal. Rptr. 686 at 697.*

17  
18 **PHRASE, 'NOT UNLAWFUL IN ITS CHARACTER' MUST BE DEFINED FOR**  
19 **JURY TO AVOID CONFUSION AND UNDUE WASTE OF TIME**

20 The jury will likely struggle with defining a 'meeting not  
21 unlawful in its character' unless the jury receives guidance on the  
22 issue.

23  
24 **JURY SHOULD BE AWARE THAT OCCURRENCE OF ROUT RENDERS GATHERING**  
25 **AN 'UNLAWFUL ASSEMBLY'**

26 According to statute, "unlawful assembly" may refer to an  
27 assembly where a rout has taken place, and the plain language of the  
28

1 statute also implies a meeting can have a unlawful character' for a  
2 variety of reasons. See Penal Code sections §406, and §407.

3  
4 **JURY SHOULD BE AWARE THAT ILLEGAL USE OF FACILITY MAY ALSO**  
5 **RENDER DEBATE-GATHERING AN 'UNLAWFUL ASSEMBLY'**

6 In addition, during the trial of People v Ryan, ample evidence  
7 was introduced that indicates that the illegal use of the facility -  
8 on the night of the debate - was in direct contravention of  
9 applicable law, which governs the rental of government facilities,  
10 and which calls for criminal penalties for any and all persons  
11 involved in the 'gifting' of public facilities away illegally. See  
12 *Education Code 7540 etal, and Education Code § 82537-82548.*

13  
14 **JURY SHOULD RECEIVE GUIDANCE REGARDING UNIQUE, DEFINITION OF**  
15 **TERM 'SUBSTANTIAL' AS APPLIED TO THE DISRUPTION OF A MEETING**

16 The Court in Kay defined a test to use when determining the  
17 effect on a meeting of any given conduct, and they stated, "whether  
18 a given instance of misconduct substantially impairs the effective  
19 conduct of a meeting depends on the actual impact of the misconduct  
20 on the course of the meeting; the question cannot be resolved merely  
21 by asking persons present at the meeting whether they were  
22 "disturbed". *In Re Patrick Thomas Patrick Kay, 1 Cal. 3d 930 at 946,*  
23 *464 P.2d 142 at 152; 83 Cal. Rptr. 686 at 696.*

24 If the jurors do not realize they are to analyze the word  
25 'substantial' by analyzing whether how the course of the meeting was  
26 "impacted"; rather than applying a common meaning of the term  
27 'substantial' that might come right from a dictionary.

1           **A 'DISTURBANCE' THAT LAST JUST A FEW MINUTES IS NOT CONSIDERED**  
2           **'SUBSTANTIAL', WHERE THE SPEAKER COMPLETES HIS PLANNED SPEECH**

3           The Court in *Kay* analyzed how 'substantial' a disruption was  
4 and noted, "the questioned conduct continued only for a few minutes,  
5 Congressman Tunney was able to complete his speech . . ". See *In Re*  
6 *Patrick Thomas Patrick Kay*, 1 Cal. 3d 930 at 944, 464 P.2d 142 at  
7 151; 83 Cal. Rptr. 686 at 695. Here, the only evidence deduced at  
8 trial that went to the 'impact on the course of the meeting'  
9 indicates that the meeting lasted two full hours, just as it was  
10 scheduled to do, and that the debate in question was not shortened  
11 in any way due to defendant's assertion of his rights. the jury  
12 could mistakenly find the defendant guilty if they were not aware  
13 that an interruption of the type described at the trial of this  
14 matter, has been found to not be 'substantial' by the Supreme Court  
15 of California.

16  
17           **OUTER LIMITS ON CONSTITUTIONALLY ACCEPTABLE BEHAVIOR**  
18           **ILLUSTRATED BY FACTS OF *McMAHON V. ALBANY SCHOOL DISTRICT***

19           Judicial guidance regarding the application of section 403 to  
20 particular facts of a given case, are not abundant; therefore, "In  
21 order to provide guidance regarding the outer limits of acceptable  
22 behavior at public meetings and how it impacts the course of a  
23 meeting, the jury could be informed that in *McMahon v Albany School*  
24 *District*, the defendant was arrested for disturbing a meeting, and  
25 his arrest was ruled valid considering he dumped 5 trash bags full  
26 of used hypodermic needles and cigarette butts all over the floor of  
27 a children's cafeteria that served as the setting for a local school  
28 board meeting. See *McMahon v Albany School District* 104 Cal.App. 4<sup>th</sup>

1 1275; *Cal. Rptr.2d 184 (2002)*. The meeting was held up for  
2 approximately 15-20 minutes. Despite these facts, the prosecutor did  
3 not press charges after the arrest; thus *McMahon v Albany School*  
4 *District* would seem to come very, very close to fixing the outer  
5 boundaries of what might be considered a 'substantial' interruption  
6 of a meeting, that doesn't quite rise to the level of a prosecutable  
7 offense. See *McMahon v Albany School District 104 Cal.App. 4<sup>th</sup> 1275;*  
8 *Cal. Rptr.2d 184 (2002)*.

9 In *People v Ryan*, the defendant is accused of disrupting an  
10 event for approximately three to three and a half minutes, and  
11 defendant only engaged in 'pure speech' before his arrest, without  
12 dumping toxic waste, or delaying the meeting any where near as long  
13 as the defendant did in *McMahon v. Albany*.

14  
15 **DEFENSES SUPPORTED BY EVIDENCE AND LAW MUST BE KNOWN TO JURY**

16 In *People v. St. Martin*, a California Appeals Court ruled that ,  
17 "The trial court has a duty to instruct the jury on every principle  
18 of law necessary to decide the case, including defenses. *People v*  
19 *St. Martin (1970) 1 C3d 524, 531, 83 CR 166; People V. Russell*  
20 *(2006) 1144 Ca.4<sup>th</sup> 1415, 1424, 51 CR3d 263*. In the matter of *People v*  
21 *Ryan*, the evidence presented at trial, raises issues regarding what  
22 defenses should be included in a jury instruction.  
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1           **DEFENDANT HAS ESTABLISHED SEVERAL DEFENSES TO CHARGES, NOT**  
2 **SPELLED-OUT IN STANDARD CALCRIM 16.225 INSTRUCTIONS**

3  
4           **1) CONSTITUTIONALITY OF MEETING RULES:** Constitutional validity  
5 of meeting rules must be closely scrutinized where First amendment  
6 rights at stake. *Castro v Superior Court*, 9 Cal.App.3d 675, 88 Cal.  
7 Rptr. 500.

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10           **2) WAIVER OF MEETING RULES:** In *Kay*, the court stated that "Even  
11 if clear rules can be found, the officials of a meeting commonly  
12 suspend or simply ignore such rules to expedite the work of the  
13 meeting." [citations omitted] Silence of meeting officials in the  
14 face of unusual or raucous activity necessarily suggests that the  
15 rules of the meeting permit the activity or that the officials do  
16 not intend to enforce prohibitory rules to the contrary." [citations  
17 omitted]. *In Re Patrick Thomas Patrick Kay* 1 Cal. 3d 930 at 945, 464  
18 P.2d 142 at 152; 83 Cal. Rptr. 686 at 696. Here, Steve Bosh has  
19 testified that he told the defendant to stay on the stage, and  
20 witness Mike Cully has reported that he stayed in the back of the  
21 theater and didn't try and enforce the debate rules, so the  
22 defendant would "incriminate" himself.

23  
24           **3) ANY WARNINGS THAT MAY HAVE BEEN GIVEN TO DEFENDANT, DID NOT**  
25 **CLARIFY STANDARD OF CONDUCT IN DOUBT**

26           *Kay* requires that warnings be given to defendant that  
27 'clarifies the standard of conduct in doubt'. *In Re Patrick Thomas*  
28 *Patrick Kay* 1 Cal. 3d 930 at 946, 464 P.2d 142 at 152; 83 Cal. Rptr.

1 686 at 696. Being told, 'you must come with me, so we can talk it  
2 over' is not a warning that clarifies the standard of conduct in  
3 doubt. The standard of conduct in doubt could have related to the  
4 amount of time the defendant spoke or why he was present, but those  
5 types of warnings were not given. Evidence deduced at trial shows  
6 that after the defendant was taken from the debate-stage, the  
7 defendant was finally told he had exceeded a non-existent two-minute  
8 speaking limit and he violated meeting rules by saying the 'F' word  
9 (which did not happen at all).  
10  
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12  
13 **4) DEFENDANTS GOOD FAITH BELIEF IN 'RIGHT TO BREAK DEBATE**  
14 **RULES' IS DEFENSE TO CHARGE, JURY NEEDS TO BE MADE AWARE OF IN JURY**  
15 **INSTRUCTIONS**

16 In Kay the Court said, "In addition, we note that criminal  
17 provisions similar to section 403 have generally been held  
18 inapplicable to one who breaches a meeting rule in the good faith  
19 belief that it is invalid. Courts have reasoned that the legislature  
20 could not have intended that disputes about meeting or  
21 organizational rules or the power or authority of a chairman or  
22 other official be resolved by means of a criminal prosecution".  
23 [citations omitted]. *In Re Patrick Thomas Patrick Kay* 1 Cal. 3d 930  
24 at 946, 464 P.2d 142 at 152; 83 Cal. Rptr. 686 at 696. Here, all  
25 evidence deduced at trial indicates defendant had good faith belief  
26 in right to break debate rules, and prosecutor did not present any  
27 competent, or credible evidence to the contrary.  
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2           **5) CUSTOMS AND USAGES OF DEBATE CANNOT BE VIOLATED BY NON-**  
3 **VIOLENT POLITICAL PROTEST INVOLVING POLITICAL SPEECH**

4           Defendant cannot violate customs and usages of debate-meeting  
5 by his pure speech, since "by custom and usage, non-violent  
6 demonstrations of political views are reasonably to be expected at  
7 such an event". *In Re Patrick Thomas Patrick Kay*, 1 Cal. 3d 930 at  
8 946, 464 P.2d 142 at 152; 83 Cal. Rptr. 686 at 696. Here, all  
9 evidence deduced at trial indicates defendant engaged in non-violent  
10 protected speech, rather than unprotected, violent behavior.  
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15                           **III. CONCLUSION**

16           For the aforementioned reasons, all of defendant's proposed  
17 instructions to the jury in the matter of People v Ryan, should be  
18 utilized by the court in some form or manner in order to ensure  
19 defendant's due process rights are not violated.  
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1 **IV. VERIFICATION:**

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3 Respectfully submitted under penalty of perjury by,

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5  
6 Joseph Ryan

7 DATE: \_\_\_\_\_

8 Defendant in Pro per

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