

The Cahill Memo and Its Effect on

Enforcing CCR 4322 "Nudity" in California State Parks



SUMMARY

On May 31, 1979, DPR Director Russ Cahill issued a memo to executive staff regarding his decision not to designate clothing optional areas in state parks. It also directed staff on a new course of action, just for enforcing nudity regulations, requiring a complaint and a failure to comply after a warning, before a citation or arrest would be in play.

On August 10, 1985, Folsom Lake SRA received a complaint from a fisherman about a nude man on the lakeshore. A Ranger made contact and IDed him as Eric John Bost, advised him of the complaint and the need for him to dress appropriately. Mr. Bost complied. The next day, August 11, 1985, the same Ranger saw Mr. Bost nude on the same beach and issued him a citation for nudity (at that time Cal. Admin. Code 4322).

Mr. Bost was found guilty by a Municipal Court, but appealed the decision based on the larger meaning of the Cahill memo, his Constitutional rights and other arguable points.

The case was appealed by Mr. Bost, and the Court overturned the earlier decision on February 22, 1988. The Court said that since there was no named or

identified complainant and no warning on the second day, there was no violation. NOTE: The Court said the complainant must be a private citizen. While this is not defined, it is assumed this language means no park employee, or most likely no peace officer, can be the complainant.

On June 14, 1988, Deputy Director Jack Harrison wrote a letter to Cecil Cinder of the Western Sunbathing Association, saying the Department will follow the court decision and laying out the now-modified elements of the crime required to charge a violation of law.

Relevant reference documents:

Cahill Memo, May 31, 1979

<SNIP> "Therefore, it shall be the policy of the Department that enforcement of nude sunbathing regulations within the State Park System shall be made only upon the complaint of a private citizen. Citations or arrests shall be made only after attempts are made to elicit voluntary compliance with the regulations."

California v. Bost, February 22, 1988

<SNIP> "So long as the activity takes place in a traditionally recognized area, it is legal unless and until a complaint from a member of the public is received. Upon such complaint, a warning is to be issued and, if not heeded, a violation has occurred. Further activities of a person so warned are prohibited for the balance of the day, but activities on later days are proscribed only if preceded by a new public complaint and renewed warning."

Harrison Memo, June 14, 1988

<SNIP> "Further activities of a person so warned are prohibited for the balance of the day, but activities on later days are proscribed only if preceded by a new public complaint and renewed warning. This Department concurs in the holding of the court and will not seek appellate review of this court's judgment."



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