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September 20, 2021

Stephen J. Sedensky III
State's Attorney
146 White Street
Danbury, CT 06810

Re: State of Connecticut v. SeanPaul Reyes, D03D CR21-0192188-S

Dear Mr. Sedensky III,

I am a controversial "copwatcher," civil-rights activist, and pro-se litigant.[1] My YouTube channel features videos depicting encounters between myself and the police, and between the police and others. I am writing you this letter on behalf of myself and on behalf of the YouTube First Amendment community.

Our purpose as a YouTube First Amendment community is to not only expand all of the Constitutional rights embodied in the First Amendment, but to, specifically, expand the personal right to freedom of the press. We achieve this by openly and observably filming in traditionally and expressly public forums, including federal, state, and local governmental facility lobbies. Our purpose is to influence opinion and policy in the direction of normalizing the presence of civilian camerapeople, who can sometimes be the only justice present or available at an event, situation, or scene.

We, as a YouTube First Amendment community, understand that, while we may freely enter through the public entrances of openly public facilities to film in the publicly-accessible areas of those facilities, we must exit those facilities, unless press activity is otherwise expressly authorized, when commanded by facility or security personnel to do so.

We, as a YouTube First Amendment community, concede that, we often become impassioned, zealous, animated, or even fiercely abrasive, in our encounters or confrontations with

[1] *Stout v. ….* United States District Court for the Eastern District of Virginia, Alexandria and Richmond Divisions.

government officials or others while we're filming. While that may create the appearance that we aren't especially cognizant or solicitous of the limits and boundaries of our constitutional rights, or of the concerns of others, and while Sean Reyes may have moderate support from a fanbase of retail followers, the modern-day pioneers and leaders in First Amendment activism, unwaveringly and unhesitatingly, do not support Sean Reyes, his virtue-signal "activism," his inexperienced and undereducated understanding of constitutional rights, or the exploitative blind fairy-marshaling that he engages in for the purpose of selfishly pursuing vanity, glamour, and attention.

Please find attached a "Memorandum in Opposition to SeanPaul Reyes and in Support of the State of Connecticut." We are prepared to file, at all times material, briefs of amici curiae in response to any of SeanPaul Reyes' motions grounded in the First Amendment.

Respectfully and Appreciatively,

/s/

Marc Joseph Stout

D03D CR210192188-S	:	SUPERIOR COURT
STATE OF CONNECTICUT	:	JUDICIAL DISTRICT OF DANBURY
v.	:	AT DANBURY
SEANPAUL REYES	:	OCTOBER 7, 2021

MEMORANDUM IN OPPOSITION TO SEANPAUL REYES AND IN SUPPORT OF THE STATE OF CONNECTICUT

"'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.' *Smith v. City of Cumming*, 212 F.3d 1332, 1333 (11th Cir. 2000). Like all First Amendment protections, this right is 'subject to reasonable time, manner and place restrictions.' *Id*. 'It is by now clear that the First Amendment does not guarantee access to property just because it is owned by the government.' *Bloedorn v. Grube*, 631 F.3d

1218, 1230 (11th Cir. 2011).." *Sheetz v. City of Punta Gorda*, No. 2:2019cv00484 - Document 45 (M.D. Fla. 2019).

"'Instead, "courts use 'forum analysis to evaluate government restrictions on purely private speech that occurs on government property.'" *Keister v. Bell*, 879 F.3d 1282,

1288 (11th Cir. 2018) (quoting *Walker v. Tex. Div. Sons of Confederate Veterans, Inc.*, 135 S.

Ct. 2239, 2250 (2015)). There are several different forums. *Christian Legal Soc'y Chapter of the*

Univ. of Cal., Hastings Coll. of Law v. Martinez, 561 U.S. 661, 679 &

n.11 (2010). One type is a limited public forum. *Pleasant Grove City, Utah v. Summum*, 555 U.S. 460, 469-70 (2009). 'This distinction matters because the type of forum determines the level of scrutiny applied.' *Keister*, 879 F.3d at 1288. A limited public forum 'exists where a government has reserved [it] for certain groups or for the discussion of certain topics.' *Barrett v. Walker Cty. Sch. Dist.*, 872 F.3d 1209, 1224 (11th Cir. 2017) (alteration accepted) (quoting *Confederate Veterans*, 135 S. Ct. at 2250). So a limited public forum is not 'open to the public at large for discussion of any and all topics.' Id. And it 'can be set up to grant only "selective access" to [the] class' for which it is reserved. *Id*. (quoting *Ark. Educ. Television Comm'n v. Forbes*, 523 U.S. 666, 679-80 (1998)). For that reason, regulating a limited public forum need not be content neutral. E.g., *id.* at 1225. Instead, restrictions on a limited public forum need only be (1)

reasonable and (2) viewpoint neutral. *Christian Legal*, 561 U.S. at 679 & n.11." *Sheetz v. City of Punta Gorda*, No. 2:2019cv00484 - Document 45 (M.D. Fla. 2019).

"Reasonableness 'must be assessed in light of the purpose of the forum and all the surrounding circumstances.' *Bloedorn*, 631 F.3d at 1231 (quoting *Cornelius v. NAACP Legal Defense & Educ. Fund, Inc.*, 473 U.S. 788, 809 (1985)). Because the government chooses how wide to swing open the gate of a limited public forum, it may allow access only to certain speakers based on their identity. *Id*. (citing *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37, 49 (1983)). So 'a speaker may be excluded . . . "if he is not a member of the class of speakers for whose especial benefit the forum was created."' Id. (quoting *Cornelius*, 473 U.S. at 806). Importantly, a restriction 'need not be the most reasonable or the only reasonable limitation' to withstand a constitutional challenge. *Cornelius*, 473 U.S. at 809. 'The Government, like any private landowner, may preserve the property under its control for the use to which it is lawfully dedicated.' *Sentinel Commc'ns Co. v. Watts*, 936 F.2d 1189, 1201 (11th Cir. 1991) (internal quotation marks and citation omitted). Likewise, a government 'workplace, like any place of employment, exists to accomplish the business of the employer.' *Cornelius*, 473 U.S at

805. 'It follows that the Government has the right to exercise control over access to the [government] workplace in order to avoid interruptions to the performance of the duties of its employees.' *Id.* at 805-06." *Sheetz v. City of Punta Gorda*, No. 2:2019cv00484 -

Document 45 (M.D. Fla. 2019).

"The State, no less than a private owner of property, has power to preserve the property under its control for the use to which it is lawfully dedicated. For this reason there is no merit to the petitioners' argument that they had a constitutional right to stay on the property...because this 'area chosen for the peaceful civil rights demonstration was not only "reasonable" but also particularly appropriate . . . .' Such an argument has as its major unarticulated premise the assumption that people who want to propagandize protests or views have a constitutional right to do so whenever and however and wherever they please. That concept of constitutional law was vigorously and forthrightly rejected in two of the cases petitioners rely on, *Cox v. Louisiana*, *supra*, at 554-555 and 563-564.[7] We reject it again. The United States Constitution does not forbid a State to control the use of its own property for its own lawful nondiscriminatory purpose." *Adderley v. Florida*, 385 US 39 - Supreme Court 1966.

If *protestors* can be trespassed from the *outside* property of a governmental facility, then *camerapeople* can be trespassed from the *inside* property of a governmental facility.

"The Government's ownership of property does not automatically open that property to the public. *United States Postal Service v. Council of Greenburgh Civic Assns.*, 453 U. S. 114,

129 (1981). It is a long-settled principle that governmental actions are subject to a lower level of First Amendment scrutiny when 'the governmental function operating. . . [is] not the power to regulate or license, as lawmaker, . . . but, rather, as proprietor, to manage [its] internal operation[s] . . . .' *Cafeteria & Restaurant Workers v. McElroy*, 367 U. S. 886, 896 (1961). That distinction was reflected in the plurality opinion in *Lehman v. City of Shaker Heights*, 418 U. S.

298 (1974), which upheld a ban on political advertisements in city transit vehicles:

> 'Here, we have no open spaces, no meeting hall, park, street corner, or other public thoroughfare. Instead, the city is engaged in commerce. . . . The car card space, although incidental to the provision of public transportation, is a part of the commercial venture. In much the same way that a newspaper or periodical, or even a radio or television station, need not accept every proffer of advertising from the general public, a city transit system has discretion to develop and make reasonable choices concerning the type of advertising that may be displayed in its
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> vehicles.' *Id.*, at 303.

The Government, even when acting in its proprietary capacity, does not enjoy absolute freedom from First Amendment constraints, as does a private business, but its action is valid in these circumstances unless it is unreasonable, or, as was said in *Lehman*, 'arbitrary, capricious, or invidious.' *Ibid*. In *Lehman*, the plurality concluded that the ban on political advertisements (combined with the allowance of other advertisements) was permissible under this standard:

> 'Users [of the transit system] would be subjected to the blare of political propaganda. There could be lurking doubts about favoritism, and sticky administrative problems might arise in parceling out limited space to eager politicians. In these circumstances, the managerial decision to limit car card space to innocuous and less controversial commercial and service oriented advertising does not rise to the dignity of a First Amendment violation. Were we to hold to the contrary, display cases in public hospitals, libraries, office buildings, military compounds, and other public facilities immediately would become Hyde Parks open to every would-be pamphleteer and politician. This the Constitution does not
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> require.' *Id.*, at 304.

Since *Lehman*, 'the Court has adopted a forum analysis as a means of determining when the Government's interest in limiting the use of its property to its intended purpose outweighs the

interest of those wishing to use the property for other purposes. Accordingly, the extent to which the Government can control access depends on the nature of the relevant forum.' *Cornelius v. NAACP Legal Defense & Educational Fund, Inc.*, 473 U. S. 788, 800 (1985). In *Perry Education Assn. v. Perry Local Educators' Assn.*, 460 U. S. 37 (1983), the Court announced a tripartite framework for determining how First Amendment interests are to be analyzed with respect to Government property. Regulation of speech activity on governmental property that has been traditionally open to the public for expressive activity, such as public streets and parks, is examined under strict scrutiny. *Id.*, at 45. Regulation of speech on property that the Government has expressly dedicated to speech activity is also examined under strict scrutiny. *Ibid*. But regulation of speech activity where the Government has not dedicated its property to First

Amendment activity is examined only for reasonableness. *Id.*, at 46." *United States v. Kokinda*,

497 US 720 - Supreme Court 1990.

SUBMITTED,

/s/

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