

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
KEY WEST DIVISION**

CASE NO. \_\_\_\_\_

THOMAS GRAY,	)
	)
Plaintiff,	)
	)
vs.	)
	)
MARK E. KOHL, in his official capacity	)
as State Attorney for the Sixteenth Judicial	)
Circuit of Florida, RICHARD D. ROTH	)
in his official capacity as Monroe County	)
Sheriff, and SHERIFF’S OFFICER JOHN	)
PEREZ, in his official capacity,	)
	)
Defendants.	)
_____	)

**VERIFIED COMPLAINT  
FOR INJUNCTIVE AND DECLARATORY RELIEF<sup>1</sup>**

**I. INTRODUCTION**

1. This action is brought to challenge the Defendants’ prohibition of Plaintiff, Thomas Gray, a Gideon, from distributing Bibles on a public sidewalk within 500 feet of a school.
2. The actions of Defendants violate well-established constitutional rights to engage in free speech in a traditional public forum.
3. Defendants based their prohibition on a Florida School Safety Zone Statute, §810.0975, which forbids anyone from coming within 500 feet of any school property without “legitimate business,” which is left undefined, or without authorization, without stating from whom it should be received.

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<sup>1</sup> Pursuant to F.S.A. §86.091, because the Constitutionality of a State statute is being challenged herein, Plaintiff has provided a copy of this Complaint to the State Attorney General.

4. Plaintiff challenges both the application of Florida Statute §810.0975 to Plaintiff's religious speech and facially as it is construed to apply to speech.

## **II. JURISDICTION AND VENUE**

5. This action arises under the United States Constitution, particularly the First and Fourteenth Amendments; and under federal law, particularly 28 U.S.C. §§ 2201, 2202; 42 U.S.C. §§ 1983 and 1988.
6. This Court has original jurisdiction over the federal claims by operation of 28 U.S.C. §§ 1331 and 1343; and supplemental jurisdiction to hear any State claims under § 1367.
7. This Court has authority to issue the requested declaratory relief under 28 U.S.C. § 2201.
8. This Court has authority to issue the requested injunctive relief under Fed. R. Civ. P. 65 and 28 U.S.C. § 1343(3).
9. This Court is authorized to award the requested damages under 28 U.S.C. § 1343(3).
10. This Court is authorized to award attorneys' fees under 42 U.S.C. § 1988.
11. Venue is proper under 28 U.S.C. § 1391 in the Southern District because this claim arose there, and because upon information and belief all Defendants reside within the District.

## **III. IDENTIFICATION OF PLAINTIFF**

12. Plaintiff Thomas Gray is an adult male and a resident of Key Largo, Florida.
13. Mr. Gray is a member of the Gideons International.

## **IV. IDENTIFICATION OF DEFENDANTS**

14. Defendant Mark Kohl is the State Attorney for the Sixteenth Judicial Circuit of Florida. Mr. Kohl is responsible for the enforcement of, and prosecution for violating, Florida Statutes, including the Statute challenged herein, within the Sixteenth Judicial District.

15. Mr. Kohl is sued in his official capacity.
16. Mr. Kohl is currently prosecuting two members of the Gideons for engaging in the same religious speech, at the same time and place, as was Plaintiff .
17. Richard D. Roth is the Sheriff of Monroe County and is responsible for the enforcement of Florida laws and Statutes, including the Statute challenged herein.
18. Sheriff Roth is sued in his official capacity.
19. Sheriff Roth is also responsible for the actions of his officers, including Officer Perez.
20. Sheriff Roth approved of, acquiesced in, and supports the enforcement of the challenged Statute against the Plaintiff and other Gideons.
21. John Perez is an officer of the Sheriff’s Office and pursuant to the authority of the Sheriff, enforced the challenged Statute against the Plaintiff and other Gideons.
22. John Perez is sued in his official capacity.
23. Officer Perez enforced the challenged Statute against Plaintiff by warning him that he was not permitted to be within 500 feet of the School when he was distributing Bibles.

## **V. STATEMENT OF FACTS**

### **Plaintiff’s background**

24. Mr. Gray has lived in Key Largo for 7 years.
25. Mr. Gray is a professing Christian.
26. Pursuant to his religious tenets, and based on Biblical teachings of the “Great Commission,” Mr. Gray desires to share his religion with others.
27. One way in which Mr. Gray shares his faith is to distribute Bibles in public to those willing to receive them.

28. Mr. Gray is a member of Gideons International and has been for 35 years.
29. The Key Largo Camp of the Gideons International was recently reestablished in October 2006.
30. Mr. Gray played a lead role in reestablishing the Gideons Key Largo Camp.
31. The Gideons Key Largo Camp has around 8-9 members.
32. Mr. Gray serves as vice president of the Gideons Key Largo Camp.
33. Mr. Gray's goal in Bible distribution, and the primary goal of the Gideons International, is to spread the good news that Jesus Christ died for the sins of mankind, and that people can be saved if they believe in Him.
34. Mr. Gray and the Gideons pursue this goal through numerous means, including the distribution of Bibles.
35. Mr. Gray and the Gideons distribute Bibles in and at various places, including: hotels; hospitals; prisons; colleges and universities; public and private schools; and more.
36. Mr. Gray has participated in 20 to 25 Bible distributions at public schools in his 35 years as a Gideon.

#### **The Public Bike Path/Sidewalk**

37. Key Largo has one road (US 1) that spans its entire length.
38. Monroe County built and maintains a public bike path/sidewalk that abuts the east side of US 1 for approximately 20 miles in Key Largo.
39. This public bike path/sidewalk is open and accessible to the public and is regularly used by community members for walking, running, biking, and other activities.
40. This bike path/sidewalk runs in front of commercial businesses, government buildings,

personal residences, and public and private schools.

#### **Activities and Uses Occurring Within 500 Feet of Key Largo School**

41. Many activities occur within 500 feet of Key Largo School between 1 hour prior to school beginning and 1 hour after school ends.
42. The public bike path/sidewalk abutting US 1 and Key Largo School is located within 500 feet of the School to both the north and south.
43. The public bike path/sidewalk is routinely used by community members as they talk, walk, bike, and jog.
44. The bike path is open and accessible to the public and is a primary route for pedestrian traffic in Key Largo.
45. Many businesses are located within 500 feet of Key Largo School as well.
46. They include a pet motel, a gas station, and a plumbing business. A restaurant called the Cracked Conch is also located within 500 feet of School property.
47. Numerous residences are also located within the 500 foot zone.

#### **Activities and Uses Occurring Within 500 Feet of Coral Shores School**

48. Many activities occur within 500 feet of Coral Shores School between 1 hour prior to school beginning and 1 hour after school ends.
49. The public bike path/sidewalk adjacent to Coral Shores is located within 500 feet of the School.
50. Pedestrians use the public bike path/sidewalk in front of Coral Shores to walk, talk, bike, and jog.
51. The bike path is open to the community and is a primary route for pedestrian traffic in Key

Largo.

52. Numerous residences are also located within 500 feet of Coral Shores School property.
53. There is also a building where fire trucks are housed that is located within 500 feet of Coral Shores School property.
54. There is a Church that is located within 500 feet of Coral Shores School property.

#### **Gideon Bible Distribution Policy**

55. Whenever the Gideons Key Largo Camp distributes Bibles at a public school, it distributes them from the bike path/sidewalk described above.
56. Members of the Key Largo Camp do not distribute Bibles from any public school's grounds.
57. The Gideons Key Largo Camp has distributed Bibles at two public schools since its reestablishment in 2006.
58. The Gideons' procedure for handing out Bibles from the public bike path/sidewalk abutting school grounds is as follows.
  - a. Approximately two weeks before the planned distribution, a representative of the Gideons calls the appropriate police department to notify them of the distribution.
  - b. Ten to fifteen minutes prior to distribution, a few Gideons members go into the school and give school administrators notice that they will be standing on the public bike path/sidewalk handing out Bibles after classes are dismissed.
  - c. Gideons members are instructed that they must stand on the public bike path/sidewalk while distributing Bibles, and are not permitted to go onto School grounds.
  - d. Gideons members are instructed not to force Bibles on anyone. They are instructed

to politely ask if a person wants a Bible. If the person agrees to accept the Bible, then the Bible is handed to the person. If a person declines to accept the Bible, the member is told to leave that person alone.

### **Bible Distribution at Coral Shores High School**

59. Several Gideons, including Mr. Gray, distributed Bibles at Coral Shores High School in December 2006.
60. Coral Shores High School is located approximately 5 miles from Key Largo School.
61. Coral Shores High School is adjacent to the same public bike path/sidewalk that abuts Key Largo School.
62. Approximately two weeks before the planned distribution at Coral Shores, Mr. Gray called Deputy Ralph Williams at the Monroe County Sheriff's Office and informed him of the plans to distribute Bibles.
63. Deputy Williams stated that the distribution was permissible and that he would be at the School on the day of distribution.
64. On the day of the distribution at Coral Shores, Deputy Williams was present.
65. Deputy Williams, his Sargent, and several other officers showed the Gideons members present where to stand on the public bike path/sidewalk.
66. The Gideons members present stood on the public bike path/sidewalk next to the entrances and exits to Coral Shores and distributed Bibles from these positions. No Gideons stepped on School grounds during the distribution.
67. There were no problems during the Coral Shores distribution.
68. Upon information and belief, no one complained about or objected to the distribution of

Bibles.

**Key Largo School Bible Distribution - January 19, 2007**

69. On January 19, 2007, several members of the Gideons Key Largo Camp distributed Bibles at Key Largo School. Among these men were Mr. Gray, Ernest Simpson, Anthony Mirto and Martin Haymond.
70. Approximately two weeks prior to the distribution at Key Largo School, Mr. Gray contacted Deputy Ralph Williams at the Monroe County Sheriff's Office to inform him of the planned distribution at Key Largo School. Mr. Gray called him three separate times to give him notice.
71. Deputy Sheriff Ralph Williams, who was present during the distribution at Coral Shores Highschool a month earlier, told Mr. Gray that the planned distribution from the public bike path/sidewalk at Key Largo School was permissible.
72. Deputy Williams also informed Mr. Gray that the school resource officer at Key Largo School would be out of town during the distribution, but that the School would have no problem with the distribution.
73. Mr. Gray arrived at Key Largo School at approximately 2:00 p.m. on January 19, 2007.
74. Shortly thereafter, Mr. Gray met with Ernest Simpson, Anthony Mirto, and Martin Haymond on the public sidewalk in front of the School, near the public crosswalk that goes across US 1.
75. The group then prayed.
76. Mr. Gray and Mr. Haymond then went to the School administration building to inform the Principal of the planned Bible distribution.

77. Once inside the building, Mr. Gray asked the School secretary if he could speak with the Principal.
78. The secretary informed Mr. Gray that the Principal was busy, but she asked what she could do to help him.
79. Mr. Gray told her several members of the Gideons would be handing out Bibles on the public bike path/sidewalk as school let out.
80. She said that the Bible distribution was permissible and that they could go ahead with it.
81. A Florida State Patrol Officer, Gretchen Glenn, was in the School office at this time and overheard Mr. Gray's conversation with the school employee.
82. Mr. Gray also spoke to Officer Glenn about the planned Bible distribution. Officer Glenn gave no indication that the Bible distribution was problematic.
83. After receiving permission for the distribution from the School and speaking with Officer Glenn, Mr. Gray and Mr. Haymond went to meet with the other Gideons on the bike path/sidewalk.
84. Mr. Gray and Mr. Haymond gave Bibles to each Gideon present and then went to their appointed spots to begin the distribution.
85. Mr. Gray was positioned on the public bike path/sidewalk by the School crosswalk.
86. Martin Haymond was positioned on the public bike path/sidewalk at the southern most entrance to the School.
87. Ernest Simpson and Anthony Mirto were positioned on the public bike path/sidewalk at the School's north exit.
88. Deputy Ralph Williams stopped at Mr. Gray's position at around 3:20 to see how the

distribution was going.

89. A short time after Mr. Gray took up his position on the bike path/sidewalk, the Principal came out of the School and stared at Mr. Gray for a few minutes. She was standing to the south of School's administration building. She did not approach or speak to Mr. Gray. She did witness Mr. Gray handing out Bibles.
90. The entire time Mr. Gray distributed Bibles at the School he stood on the public bike path/sidewalk. He did not cross onto School grounds at any time.

### **The Enforcement of the Statute**

91. At approximately 3:30, Mr Gray received a call from Ernest Simpson on his cell phone.
92. Mr. Simpson told Mr. Gray that he and Mr. Mirto were being arrested. Mr. Gray thought he was joking, and said "Yeah, right," and hung up.
93. Mr. Simpson called Mr. Gray back immediately and told him he was not joking.
94. Mr. Gray stopped distributing Bibles, put them in his truck, and walked up to the School's north exit where Mr. Simpson and Mr. Mirto were distributing Bibles.
95. There were approximately 5-6 Sheriff's officers present.
96. Mr. Gray identified himself as the Gideon member in charge and asked the officers who was in charge. They all indicated that Officer John Perez was the arresting officer.
97. Mr. Gray observed that the officers had put Mr. Simpson and Mr. Mirto in the back of a patrol car with their hands cuffed behind them.
98. Mr. Gray approached Officer Perez and calmly asked what the charges were. Officer Perez was highly agitated, and angrily said that Mr. Gray would know in 48 hours when he received the report.

99. Mr. Gray inquired about what statute had been violated, and Officer Perez responded that they (the Gideons) had no right to be within 500 feet of the School's property.
100. Officer Perez was very irate and uncooperative.
101. Because Mr. Gray had already spoken with Monroe County Sheriff Deputy Ralph Williams about the Bible distribution, Mr. Gray called him and asked for his assistance.
102. Deputy Williams told Mr. Gray that he would email Officer Perez, and that Officer Perez could read the email in his patrol car.
103. Mr. Gray told Officer Perez that he had an email in his car from another officer stating that the Gideons have a right to distribute Bibles from the public bike path/sidewalk.
104. Officer Perez asked Mr. Gray who the email was from.
105. Mr. Gray told him it was from Deputy Ralph Williams.
106. Officer Perez replied, "I don't care what anyone else has to say."
107. Mr. Gray tried to reason with him in a calm voice, but Officer Perez became more agitated and emotional and said that someone had even called his Sargent.
108. Mr. Gray then pleaded with Officer Perez to allow him to drive Mr. Mirto's truck to his home. Mr. Mirto was parked in a grassy area where 8 other cars were parked and where parents park every day to pick up their kids.
109. Officer Perez responded that it was his prerogative to take it, and he had Mr. Mirto's car towed.

### **The Improper Arrest**

110. As Officer Perez arrested Mr. Simpson and Mr. Mirto, he pushed them into the backseat of his police car and stated "Now you can pray to Jesus all the way to jail."

111. Mr. Simpson and Mr. Mirto were in a crouched position in the backseat of the patrol car, because the front seat was pushed all the way back.
112. It was extremely hot in the police car, because it was around 90 degrees outside and Officer Perez closed the doors, shut the windows, and turned off the air conditioning.
113. Mr. Mirto and Mr. Simpson were handcuffed very tight, painful, and behind their backs.
114. The men were in these circumstances for approximately 45 minutes to an hour.
115. Mr. Mirto's cuffs were so tight that his hands went numb.
116. Mr. Mirto went to a neurological center a few days after the arrest and was told that he had compressed nerves in both wrists due to the tightness of the handcuffs.

#### **Traffic Impact of Bible Distribution**

117. During the distribution Mr. Gray observed the traffic going in and out of the School.
118. The Gideon Bible distribution did not have any impact on the flow of traffic in and out of the School, nor did the distribution create an unsafe traffic situation.
119. In fact, the school crossing guard, who controls the School's pedestrian traffic crossing US 1, was very close to the area where Mr. Gray distributed Bibles.
120. The School crossing guard is the traffic control officer for the Monroe County Sheriff's Office.
121. She did not mention at any time that the Bible distribution impacted the traffic at or around the School.
122. The entire time Mr. Gray distributed Bibles at Key Largo School, he stood on the bike path/sidewalk, which is public property.

### **Chilling of Mr. Gray's Speech**

123. Mr. Gray immediately ceased his Bible distribution because of Officer Perez's threat of arrest, and the arrest of two of the Gideons.
124. Mr. Gray has not returned to distribute Bibles on the public sidewalks in front of either of the Schools in his area, or within 500 feet of any of the School property, due to his fear of arrest and prosecution.
125. Mr. Gray desires to return to the public sidewalk in front of the Schools (within 500 feet of School property) and during the time period from one hour prior to the start of school until one hour after the conclusion of school, to distribute Bibles.

### **The Statute**

126. The challenged Statute creates a "speech-free zone" and states:

School safety zones; definition; trespass prohibited; penalty

(1) For the purposes of this section, the term "school safety zone" means in, on, or within 500 feet of any real property owned by or leased to any public or private elementary, middle, or high school or school board and used for elementary, middle, or high school education.

(2)(a) Each principal or designee of each public or private school in this state shall notify the appropriate law enforcement agency to prohibit any person from loitering in the school safety zone who does not have legitimate business in the school safety zone or any other authorization, or license to enter or remain in the school safety zone or does not otherwise have invitee status in the designated safety zone.

(b) During the period from 1 hour prior to the start of a school session until 1 hour after the conclusion of a school session, it is unlawful for any person to enter the premises or trespass within a school safety zone or to remain on such premises or within such school safety zone when that person does not have legitimate business in the school safety zone or any other authorization, license, or invitation to enter or remain in the school safety zone. Any person who violates this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(c) Any person who does not have legitimate business in the school safety zone or any other authorization, license, or invitation to enter or remain in the school safety zone who shall willfully fail to remove himself or herself from the school safety zone after the principal or designee, having a reasonable belief that he or she will commit a crime or is engaged in harassment or intimidation of students entering or leaving school property, requests him or her to leave the school safety zone commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Nothing in this section shall be construed to abridge or infringe upon the right of any person to peaceably assemble and protest.

(3) This section does not apply to residents or persons engaged in the operation of a licensed commercial business within the school safety zone.

127. The punishment for a second degree misdemeanor is a term of imprisonment not exceeding 60 days and/or a fine of \$500.
128. The Statute does not define legitimate business.
129. The Statute does not state from whom permission must be sought.
130. The Statute does not state how long in advance permission must be sought.
131. The Statute does not state how long the permission lasts if granted.
132. The Statute does not include any guidelines or criteria for the unknown decision maker to abide by in deciding whether to grant or withhold permission.
133. The Statute does not specify a time frame in which the unknown decision maker must decide on whether to grant or withhold permission.

## **VI. ALLEGATIONS OF LAW**

134. Each and all of the acts alleged herein were done by Defendants under the color and pretense of state law, statutes, ordinances, regulations, customs, usages, and policies of the State of Florida.
135. Defendants have enforced the challenged Statute pursuant to their Policies and practices against the Plaintiff.

136. Plaintiff's speech, religious worship and religious expression are fully protected by the United States Constitution.
137. Concomitantly, denial of access to public fora to engage in protected religious speech is a violation of the First Amendment and the Fourteenth Amendment to the United States Constitution and State law.
138. The decisions to deny Plaintiff access to public sidewalks are a direct result of laws, policies, practices, customs, and usages officially adopted and promulgated by the State of Florida, the County of Monroe, and each Defendant.
139. Unless and until the Defendants' exclusion of the Plaintiff from public sidewalks is enjoined, the Plaintiff will suffer and continue to suffer irreparable harm to his federal constitutional and state statutory rights.

**VII. FIRST CAUSE OF ACTION - VIOLATION OF THE RIGHT TO FREEDOM OF SPEECH UNDER THE UNITED STATES CONSTITUTION.**

140. The allegations contained in all preceding paragraphs are incorporated herein by reference.
141. Religious speech is protected by the First Amendment to the United States Constitution.
142. The public sidewalks encompassed by the challenged statute are traditional public fora and are open to public assembly and speech.
143. Individuals are permitted to engage in a wide variety of activities in these zones.
144. Within a traditional public forum, express discrimination against religious speech is presumptively unconstitutional.
145. Within a traditional public forum, the government may not discriminate on the basis of the content of the speaker's speech absent regulations that further a compelling governmental

- interest that are narrowly tailored.
146. Regardless of the type of forum (traditional, designated, limited, or nonpublic fora), the government may not discriminate based upon the viewpoint expressed by the speaker.
  147. Pursuant to the challenged Statute, the Defendants prohibited Plaintiff, while also arresting and prosecuting several other members of the Gideons, because of their religious speech activities while routinely permitting other individuals to engage in nonreligious speech activities and have therefore engaged in both content and viewpoint based discrimination.
  148. The Statute and Policies are content based because it is the subject of the speech that lead to the complaint and enforcement of the statute against Plaintiff.
  149. The Statute and Policies are content-based because they allegedly exempt protest from their reach, but no other speech content.
  150. Defendants' Statute, Policies and practices permit them to exercise unbridled discretion in denying Plaintiff access to the speech-free zone, and the Defendants wielded this unbridled discretion to exclude Plaintiff.
  151. Defendants have enforced their Statute, Policies and practices against the Plaintiff in an ad hoc and arbitrary manner.
  152. Defendants' Statute and Policies are unconstitutional prior restraints that allow Defendants to prohibit speech in advance of its taking place.
  153. The Statute and Policies contain no guidelines to govern the decisions of the Defendants.
  154. The Statute and Policies do not identify who may grant the required authorization to speak.
  155. The Statute and Policies do not state the time frame in which the unknown official must decide whether to grant permission, or for how long that permission lasts.

156. Defendants have no compelling government interest to justify their discriminatory treatment of the Plaintiff.
157. The Statute and Policies are not reasonable and are not narrowly tailored.
158. The Statute and Policies are both underinclusive and overinclusive.
159. They are underinclusive because they do not prohibit the myriad of activities that occur on the sidewalk within the zone on a daily basis.
160. They are overinclusive because they prohibit pure speech that has no relation to whatever interest they are attempting to achieve.
161. The Statute is overbroad because as construed by the Defendants, it applies to all speech.
162. Defendants' Statute, Policies and practices therefore violate the Free Speech Clause of the First Amendment to the United States Constitution as incorporated and applied to the States through the Fourteenth Amendment.

WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth hereinafter in the prayer for relief.

**XIII. SECOND CAUSE OF ACTION-VIOLATION OF THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT.**

163. The allegations contained in all preceding paragraphs are realleged and incorporated herein by reference.
164. Defendants' Statute, Policies and practices are vague and allow for ad hoc enforcement and unbridled discretion to restrict constitutionally protected expression.
165. Defendants do not allow citizens to engage in religious speech because they deem it not to be "legitimate business."

166. It is impossible to know where the line is drawn when speech is no longer considered “legitimate” (is it when another objects to the content, or when another just decides afterwards that he would rather not have heard the speech, or merely when he disagrees with the speaker’s expressed beliefs?).
167. The Statute, Policies and practices are also vague and permit unbridled discretion to prohibit speech because there are no guidelines to regulate the decision.
168. The Statute includes no definition or guidelines to determine the meaning of “legitimate business.”
169. The Statute does not specify who decides whether the speech is “legitimate.”
170. The Statute does not specify who decides whether authorization should be granted to permit the speech.
171. The Statute includes no time frame in which the unknown decision maker must decide whether to grant or deny authorization.
172. Defendants’ Statute, Policies and practices therefore violate Plaintiff’s rights under the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

WHEREFORE Plaintiff respectfully prays that the Court grant the relief set forth hereinafter in the prayer for relief.

**IX. THIRD CAUSE OF ACTION - VIOLATION OF THE EQUAL PROTECTION CLAUSE UNDER THE UNITED STATES CONSTITUTION.**

173. The allegations contained in all preceding paragraphs are incorporated herein by reference.
174. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution requires that the government treat similarly-situated persons equally.

175. Pursuant to the Statute and Policies, the Defendants allowed similarly-situated persons access to the speech-free zone to engage in a wide variety of conduct.
176. The Defendants' Statute, Policies and practices of denying individuals, including the Plaintiff, access to the speech-free zone treats them differently than similarly-situated persons.
177. Defendants excluded the Plaintiff from the forum based on the content and viewpoint of his speech.
178. Defendants allow nearly all types of activities in their forum, except certain religious speech.
179. Defendants have no rational or compelling reason that would justify their exclusion of the Plaintiff from the public sidewalks.
180. The Defendants' Statute, Policies and practices therefore violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth hereinafter in the prayer for relief.

**X. FOURTH CAUSE OF ACTION - VIOLATION OF THE RIGHT TO FREE EXERCISE OF RELIGION UNDER THE UNITED STATES CONSTITUTION.**

181. The allegations contained in preceding paragraphs are incorporated herein by reference.
182. The Plaintiff's desire to share his faith is motivated by his sincerely held religious beliefs.
183. The Bible instructs believers to share the Gospel with others.
184. Plaintiff sought, and continues to seek, to discuss issues from a religious perspective and to engage in religious speech through Bible distribution.
185. Pursuant to the Statute, Policies and practices, the Defendants have excluded Plaintiff from

the speech-free zone while permitting other people access for similar nonreligious purposes.

186. The Defendants' Statute, Policies and practices of requiring religious individuals, like the Plaintiff, to censor their religious speech selectively imposes a burden on the Plaintiff that is not imposed on other individuals.
187. By forcing Plaintiff to choose between abandoning his religious beliefs of sharing his faith and preaching the Gospel in order to gain access to the speech-free zone on the one hand, or abiding by his religious beliefs only to be arrested and prosecuted on the other, imposes a substantial burden on Plaintiff's sincerely-held religious beliefs.
188. The Defendants have no rational or compelling reason that would justify their denial of the Plaintiff from the speech-free zone.
189. The Defendants' Statute, Policies and practices therefore violate the Free Exercise Clause of the First Amendment to the United States Constitution as incorporated and applied to the states through the Fourteenth Amendment.

WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth hereinafter in the prayer for relief.

**XI. FIFTH CAUSE OF ACTION - VIOLATION OF THE RELIGIOUS FREEDOM RESTORATION ACT OF THE STATE OF FLORIDA**

190. The allegations contained in the preceding paragraphs are incorporated herein by reference.
191. Pursuant to Florida Statutes §761.02, et seq., government may not substantially burden the free exercise of religion, even under a law of general applicability, unless it demonstrates a compelling interest and that the application of the burden is the least restrictive means of furthering that interest.

192. The Plaintiff's desire to share his faith in the speech-free zones is motivated by his sincerely held religious beliefs in obedience to Biblical mandates.
193. Plaintiff sought to, and continues to seek to discuss issues from a religious perspective in the zones.
194. Pursuant to the Statute and County Policies and practices, the Defendants have excluded the Plaintiff from the speech-free zone while permitting other nonreligious individuals access for similar non-religious purposes and activities.
195. Defendants' exclusion of Plaintiff from the speech-free zone evidences a discriminatory intent.
196. Defendants' prohibition of Plaintiff from the speech-free zone while similar individuals may continue to use it constitutes a substantial burden on Plaintiff's Free Exercise rights.
197. Forcing Plaintiff to choose between following his religious beliefs to share the Gospel and being denied access to the speech-free zone, and abandoning his religious beliefs so that he may gain access creates a substantial burden on Plaintiff.
198. Defendants have no rational or compelling reason that would justify their denial of the Plaintiff from the speech-free zones.
199. Defendants do not employ the least restrictive means in applying their burden against Plaintiff.
200. The Defendants' Statute, Policies and practice therefore violate the Religious Freedom Restoration Act of the State of Florida.

WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth hereinafter in the prayer for relief.

## **XII. PRAYER FOR RELIEF**

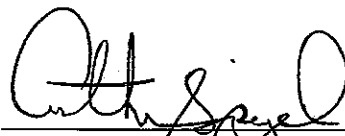
WHEREFORE, Plaintiff respectfully requests for relief as follows:

- A. That this Court issue a preliminary and permanent injunction requiring the Defendants to permit the Plaintiff to engage in his proposed speech activities on public sidewalks within 500 feet of schools;
- B. That this Court issue a preliminary and permanent injunction, enjoining the Defendants, their officers, agents, employees, attorneys and all other persons acting in active concert with them, from enforcing F.S.A. §810.0975 both facially as construed to apply to speech and as-applied to Plaintiff's religious speech;
- C. That this Court enter a Declaratory Judgment declaring F.S.A. §810.0975 unconstitutional both on its face and as applied to Plaintiff's religious speech;
- D. That this Court award Plaintiff nominal and compensatory damages against Defendants Roth and Perez in their official capacity arising from their acts;
- E. That this Court award Plaintiff his costs and expenses of this action, including reasonable attorneys' fees, in accordance with 42 U.S.C. § 1988 , F.S.A. § 761.04, and other applicable law;
- F. That this Court retain jurisdiction of this matter as necessary to enforce the Court's orders.

Respectfully submitted,

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305- 670-7776  
305- 670-7746 Facsimile

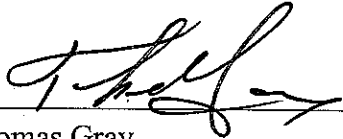
Attorneys for Plaintiff

\* Pro Hac Vice Motions submitted herewith

**VERIFICATION**

I, Thomas Gray, a citizen of the United States and a resident of the State of Florida, have read the foregoing Verified Complaint for Declaratory and Injunctive Relief and declare under the penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

Dated this 14 day of APRIL, 2007 in HOY LAKE, Florida.

  
\_\_\_\_\_  
Thomas Gray