



National Press Photographers Association, Inc.

The Society of Visual Journalists

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VIA EMAIL

August 16, 2012

Deputy Commissioner Paul J. Browne
Office of the Deputy Commissioner of Public Information
New York Police Department
1 Police Plaza
New York, NY 10007

Re: Arrest of Robert Stolarik

Dear Deputy Commissioner Browne,

As noted in the 8/15/12 email to you from George Freeman I write to you as co-counsel in this matter. I am attaching a copy of a 6/2/77 Stipulation and Order in the U.S. District Court for the Southern District of New York in the matter of *Black v. Codd* along with an Article from the NY Times regarding that case.

I believe that *Black* is directly on point with the facts and circumstances surrounding the arrest of Robert Stolarik on 8/4/12. Mr. Stolarik was a person not involved in the conduct for which the first person was arrested in the Bronx that night. The Consent Decree stipulates that he had the right to “remain in the vicinity of the stop or arrest as an onlooker.” We also assert that as a DCPI credentialed member of the media, and pursuant to the Commissioner’s Finest message, Mr. Stolarik was entitled to be present and photograph those events, especially considering the public concern regarding the NYPD Stop and Fisk program:

The public’s access to information regarding the official business of the Department is of critical importance to effective City government. Because the public receives much of this access through the news media, members of the service must ensure that Department procedures which provide for cooperation and assistance with press personnel and which allow press personnel to access the scenes of incidents are carefully followed. Supervisors may restrict access to an incident scene only in those exceptional circumstances where it is absolutely necessary for law enforcement or public order purposes.

Policing incidents from crime scenes to major public events places a great burden on both line and supervisory personnel. Members of the service must respect, however, the public’s right to know about these events and the media’s right of access to report on these events. Members of the service who unreasonably interfere with media access to incidents or who intentionally prevent or obstruct the photographing or videotaping of news in public places will be subject to disciplinary action.

NYPD Commissioner Raymond W. Kelly’s Finest message of 11/23/11 (emphasis added).

The fact that Mr. Stolarik was charged with a violation of NYS Penal Law §195.05 is in contravention of the directive in the Consent Decree that “none of the following constitutes probable cause for arrest or detention of an onlooker . . . : (b) Requesting and making notes of shield numbers or names of officers; (c) Taking photographs; (d) Remaining in the vicinity of the stop or arrest.”

We assert that given that no probable cause existed for Mr. Stolarik’s underlying arrest for Obstruction of Governmental Administration, the charge of resisting arrest is a nullity.

Therefore given the high likelihood of success in dismissing the charges against Mr. Stolarik, we respectfully renew our request that his DCPI issued press credentials be immediately reinstated/returned with further review pending the outcome of that matter. Because Mr. Stolarik is scheduled to leave NY on 8/24/12 to cover the Republican National Convention in Tampa (and it is our understanding that he must personally reclaim his press credentials) we also request that his credentials be returned to him before he departs.

Thank you for your consideration in this matter. I anticipate your timely reply.

Very truly yours,

Mickey H. Osterreicher

Mickey H. Osterreicher
General Counsel

Enc.

cc: George Freeman, Esq. (via email)
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Mr. Robert Stolarik (via email)
Sean D. Elliot, NPPA President (via email)