

UNITED STATES GOVERNMENT

# Memorandum

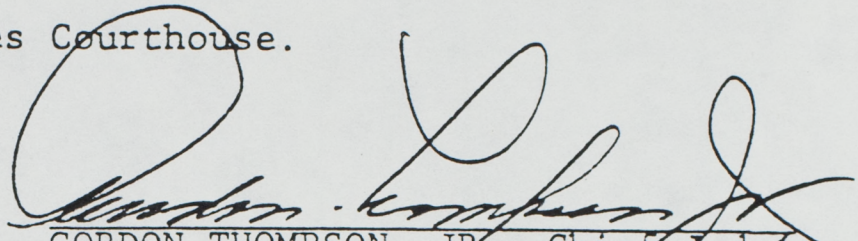
**TO :** PAUL HAMILTON, Building Manager  
General Services Administration

**DATE:** Jan. 6, 1986

**FROM :** CHIEF JUDGE GORDON THOMPSON, JR.

**SUBJECT:** STRUCTURE PLACED IN FRONT  
OF COURTHOUSE

For security reasons you are hereby directed forthwith to cause the removal of the structure standing in front of the United States Courthouse.

  
GORDON THOMPSON, JR., Chief Judge  
United States District Court





General Services Administration, Region 9



January 6, 1986

Mr. David E. Avolos  
708 "D" Avenue  
National City, CA 92050

Dear Mr. Avolos:

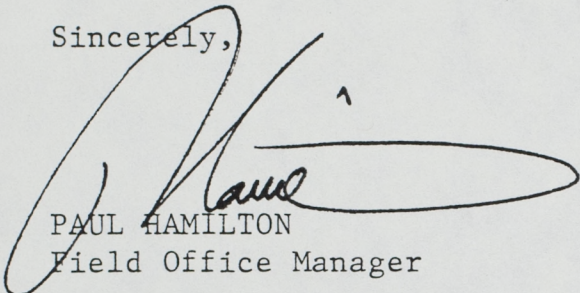
This will confirm our phone conversation of earlier today regarding your piece of art work presently in place at the Federal Building and U.S. Courthouse.

The permit for use of space in public buildings and grounds issued to you on December 10, 1985, is hereby revoked. Please have the piece removed not later than 8:00 P.M. this date.

This action is taken based on the provisions of Federal Property Management Regulations, Title 41, Code of Federal Regulations, Chapter 101, paragraph 101-20.7 and considerations for the security of the building and its occupants.

While I regret the need for this action I'm hopeful that you understand the Government's position.

Sincerely,



PAUL HAMILTON  
Field Office Manager



# San Jose Mercury News

January 9, 1986

## Court banishes 'inappropriate' artwork

By Bob Dorn

Special to the Mercury News

SAN DIEGO — The judge said it was dangerous, the General Services Administration has found it inappropriate for a federal courthouse and the artist who built it, with GSA approval, says he's being censored.

On Monday, local artist David Avalos erected the 8-foot-high work — a takeoff on Tijuana's famous tourist donkey cart and described by Avalos as a protest against unfair immigration laws — outside the federal courthouse here.

But within hours, Chief U.S. District Judge Gordon Thompson Jr. objected to it "for security reasons" and told the GSA to rescind its approval.

The cart, which was funded by a National Endowment for the Arts grant and depicts an undocumented worker being frisked by a U.S. Border Patrol officer, was dismantled by a GSA crew in the dead of night after Avalos refused to remove it himself.

The American Civil Liberties Union has intervened in the flap with a motion seeking an order to restore the offending piece to the brick walkway it so briefly adorned, and Avalos, who insists the assemblage is "not one of my harder-hitting pieces" thinks Thompson has "abused his authority."

"If Sylvester Stallone showed up at the federal courthouse for a special screening of Rambo, Judge Thompson would be there looking for an autograph," says the 37-year-old artist whose work last year was shown in the prestigious La Jolla Museum of Contemporary Art. "What they're saying is if they agree with it, it's art, and if they don't, it's political."

For his part, Thompson denied that he wanted the piece dismantled because of its content.

"Until I saw the TV last night, I didn't know what it was depicting," Thompson said. He said he feared that the assemblage "was sort of an invitation for a kook to do some harm to it

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‘What they’re saying is, if they agree with it, it’s art, and if they don’t, it’s political.’

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— David Avalos, artist

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or the building ... some kook who might put an incendiary or explosive device into it."

Avalos said, however, that he was told by GSA's field manager in San Diego, Paul Hamilton, that Thompson and a magistrate who also complained about the piece had objected to its politics.

"He (Hamilton) told me they thought it's anti-American. Well, I think censorship is anti-American," said the artist.

All calls to Hamilton from reporters were being routed to the GSA's spokeswoman in San Francisco, Mary Filippini, and Filippini said she had not spoken to Thompson.

Filippini said the local decision approving the piece Dec. 10 was "an honest mistake. I think it was a matter that they simply did not realize, when the application came in, that it was not appropriate."

The application approved by the local GSA office included a color photograph of a nearly identical, small-scale model of the assemblage and numerous newspaper reviews describing Avalos' work as "sociopolitical statements about the concerns of the Chicano community."

ACLU lawyer Gregory Marshall said he was not sure who would hear his motion. All 10 U.S. district judges concurred in Thompson's order, he said, so the filing "might have to go immediately to the 9th Circuit Court of Appeals" to be heard.

Another confusion raised by the judge's action concerns the court's

authority to order the removal. Marshall said the U.S. Constitution requires that a complaint be brought before justices before they can act.

"I wouldn't think the judge intended to exercise judicial powers when he wrote that letter to the GSA, but that leaves open the question of what powers he was exercising," Marshall said.

But Filippini said, "We felt the order from the judge was reason to revoke the permit."

Initial response from the arts community was solidly behind Avalos.

A member of San Diego's Public Arts Advisory Board called the dismantling "an insult to the community." And a lawyer who also is a trustee of the La Jolla Museum of Contemporary Art has been donating his consultations with the ACLU's Marshall.

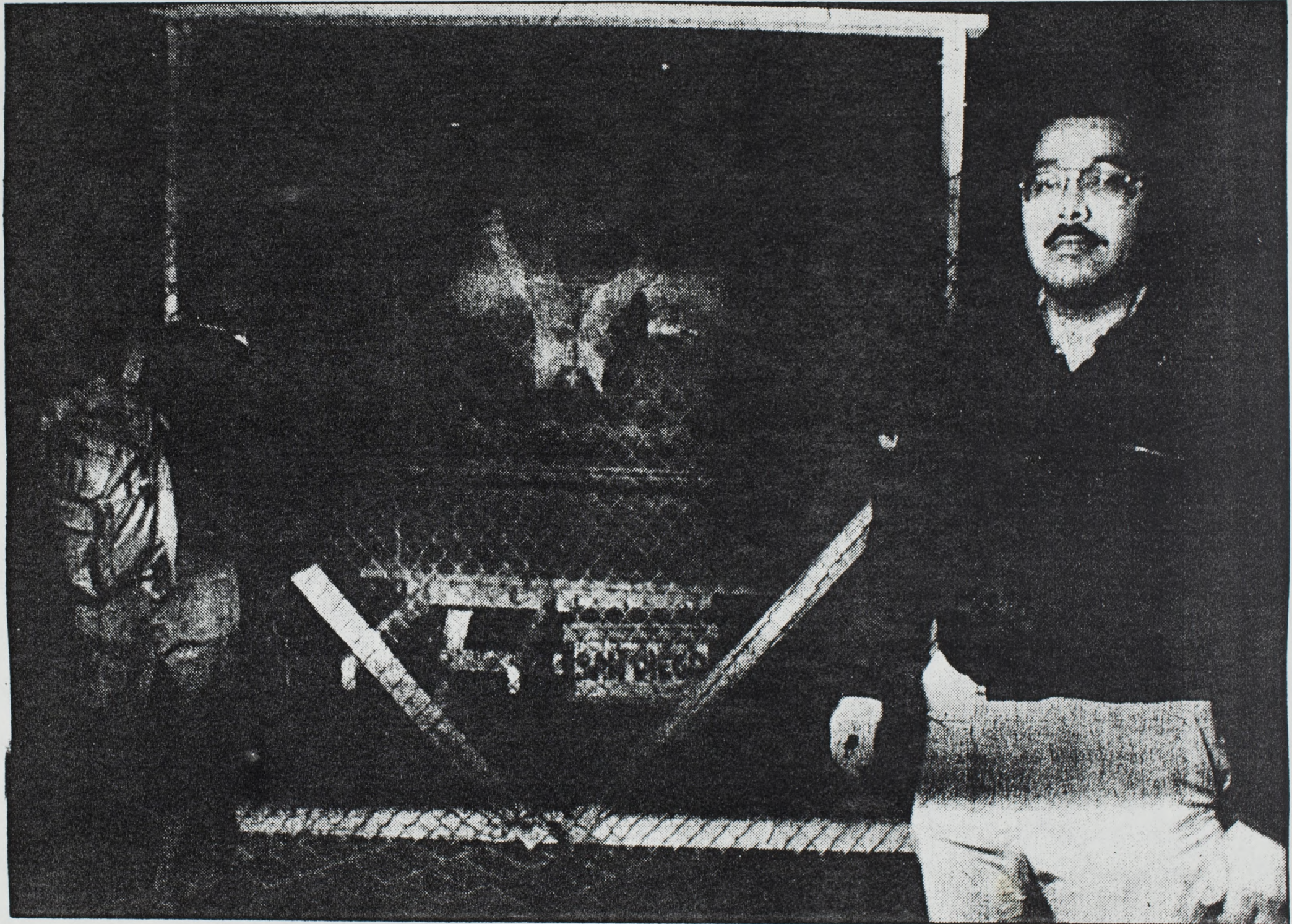
As to Thompson's claim that the construction is a security threat, Avalos said, "I think we're entering the realm of the absurd."

The piece was one of four commissioned by a local gallery and performance art space called Sushi and its director, Lynn Schuette, who was responsible for securing the NEA grant. Besides Avalos' assemblage, another larger construction is in place in the city's new Horton Plaza, and two other pieces are being displayed in the gallery.

Avalos' dismantled piece remains in the basement of the federal courthouse until the court case reaches its conclusion.



# Too much for the critics



United Press International

Artist David Avalos, right, stands before his controversial depiction of an undocumented worker being frisked



# San Francisco Chronicle

The Largest Daily Circulation in Northern California

THURSDAY, JANUARY 9, 1986

## Judge Has Sculpture Removed — Cites Fear of Violence

San Diego

A sculpture was removed from in front of the federal courthouse Tuesday because of a powerful critic — the chief judge — who was afraid it would incite violence.

The artwork, titled "San Diego Donkey Cart," depicted the frisking of an illegal alien by an immigration officer atop a donkey cart. It was surrounded by a cage made of chicken wire.

Chief U.S. District Judge Gordon Thompson ordered it removed three days after it was erected with permission from the federal General Services Administration.

The sculptor, David Avalos, criticized the action as censorship.

"The idea that that work represents a security threat is complete baloney," he said. "I played by the book and got the permit. Now a federal judge is acting as art censor and trying to put on a coverup."

Thompson overruled the order after a conference with his nine fellow judges.

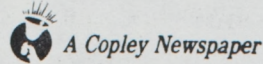
"We didn't know if some kook would get into this chicken wire and box arrangement in the middle of the night and plant some bomb," said Thompson. "We've got those kooks out there."

*United Press*



# THE TRIBUNE

HELEN K. COPLEY, *Publisher and Chairman, Editorial Board*



NEIL MORGAN, *Editor*

ROBERT M. WITTY, *Deputy Editor*

WALT MILLER, *Managing Editor*

RALPH BENNETT, *Chief Editorial Writer*

San Diego, California, Wednesday, Jan. 15, 1986

Telephone 299-3131

Page B-6

## Letters to The Tribune

### *Federal judiciary called 'prejudiced'*

In The Tribune's Jan. 9 editorial, "San Diego donkey cart" outrage," you comment that David Avalos' art piece depicting the U.S. Border Patrol frisking an apparently undocumented Mexican never should have been allowed to be exhibited in front of the Federal Court House.

You suggest the artwork violated government guidelines which exclude art displays of political and religious propaganda in and around public buildings.

If the art piece had flattered the Border Patrol, would you still have viewed it as political propaganda inappropriate for display? Or, is your definition of "propaganda" colored by whether you, or the judges who were offended by the piece, agree with the political theme depicted?

The difficulties encountered by federal officials in enforcing our immigration laws must be blamed on our nation's unjust immigration policy. It is a policy which attempts to exclude from this land a group of people whose ancestors walked this continent thousands of years before Europeans set foot here.

Whether or not it was his intention, Mr. Avalos' "San Diego donkey cart" has briefly torn the mask off and revealed a prejudiced federal judiciary.

Rather than lamenting the court's lost virtue or the faux pas created by the judges' hasty and arbitrary removal of the art piece, perhaps we should be looking into the effect this prejudice is having on the thousands of cases they are asked to decide each year.

—AL DUCHENY  
San Diego



# Daily Californian

TUESDAY  
January 14, 1986

LA MESA LAKE MURRAY  
SAN CARLOS

A hot topic:  
political art  
See Community, Page 5A

## Political art stirs up controversy

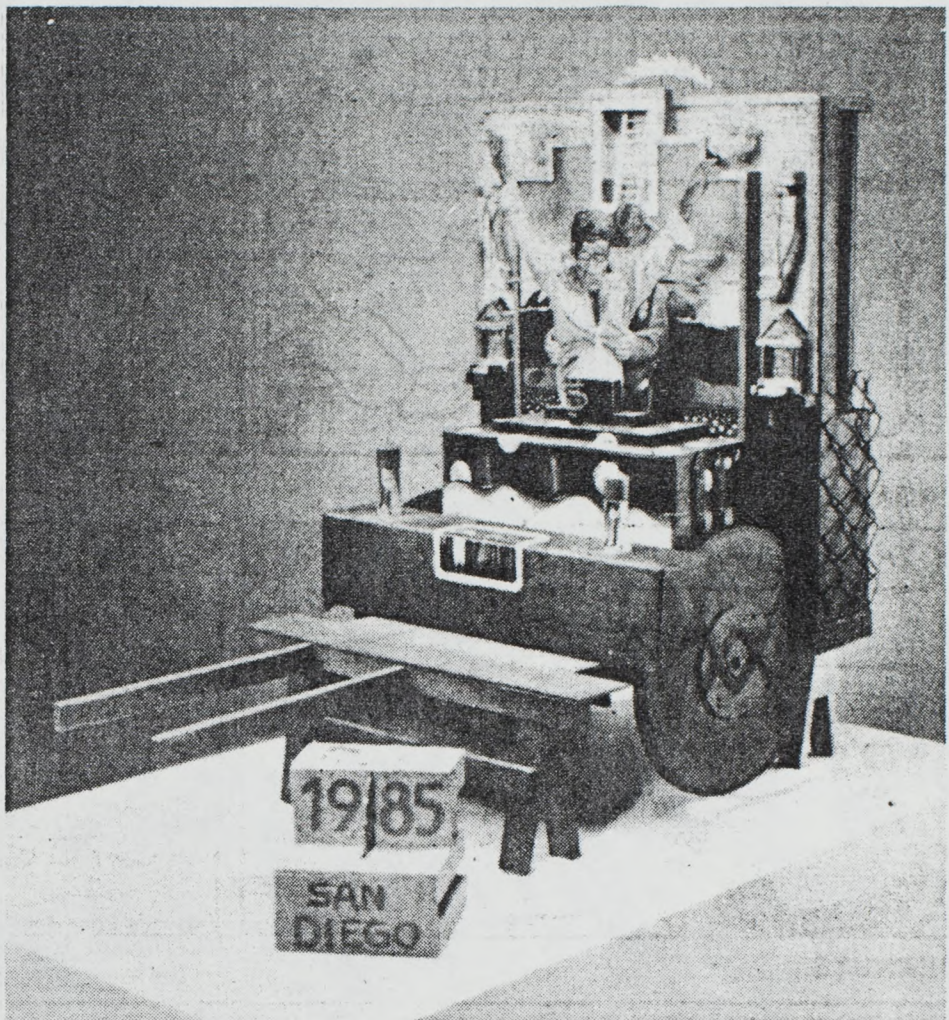
By David Beck Brown  
for The Daily Californian

Around 10:30 p.m. on Monday, Jan. 6, federal workers, acting by order of Chief U.S. District Judge Gordon Thompson, removed an art installation by artist David Avalos from the grounds adjacent to the federal courthouse in downtown San Diego.

Judge Thompson cited "security" reasons as grounds for removing the art. The judge said he was concerned for the safety of federal officials. He thought a bomb could be placed in this art installation. A metal detector is located by the courthouse main entrance and security guards and closed-circuit television cameras monitor the grounds. Only months ago a woman deliberately rammed a truck into the building. Judge Thompson had the unanimous support of the other ten magistrates before ordering the art removed. He said the content of the political art had nothing to do with his decision.

A chainlink fence eight feet high by six feet wide and ten feet long, topped with barbed wire, surrounded the painted wood structure titled "San Diego Donkey Cart." Such carts are familiar to American tourists who are often photographed sitting on them while visiting Tijuana. The carts present a stereotypical image of Mexico. They're equipped with serapes, sombreros and images of cacti.

"Instead of confronting this reality of a border region, you sit on this cart and come away with this photo that I was in the real 'Old Mexico,' which is a complete fiction," said Avalos. "So, my donkey cart includes the image of an undocumented alien being apprehended by the Border Patrol. It shows that relationship between Mexico and the United States, basically a law enforcement, military relationship of domination."



This is a marquette of "San Diego Donkey Cart."

He said he felt that by taking this image off the streets of Tijuana and placing it in San Diego that a connection between the two could be seen as one region. Versions of the San Diego Donkey Cart have been displayed in San Francisco, Sacramento and Santa Monica. It has never been exhibited in Mexico.

The internationally respected performance and contemporary art center, Sushi, commissioned the four art installations in this project called "Street Works." It was funded through a National Endow-

ment for the Arts grant. Lynn Schuette, director of Sushi gallery, said, "The intent of Street Works was to present social issues in public places. Art is more than decorations on walls."

Schuette was aware that the art dealt with Mexican and American immigration problems.

"By placing contemporary art in the community, a social dialogue would result," she said. "The proper legal permits were obtained, then a lot of people rescinded after the process — it's a most dramatic case



of censorship."

The other artists Sushi gallery commissioned were Mario Lara, Frank Grow and Marjorie Nödleman, with installations at Horton Plaza and Sushi gallery. Of the four, only Avalos' art has been removed.

Last Thursday, Avalos sought support from the city's Public Arts Advisory Board (PAAB). He handed out informational packets consisting of the following:

- Photocopies of the original permit obtained to install the art.

- Judge Thompson's memorandum ordering the structure removed.

- The General Service Administration's form revoking the permit.

- An article and newspaper review critiquing the art.

- Additional photocopies portrayed two arts works, including a marquette of the now controversial San Diego Donkey Cart.

Avalos was poised and unemotional in presenting his situation to PAAB. He asked that if the art posed a security problem, then why haven't trash receptacles close to the courthouse been removed. A bomb could easily be placed in them. Furthermore, concerning the example of the truck ramming the building, why haven't barricades been installed to prevent the recurrence of such an act, he asked. He said the removal of the art installation was patent discrimination and requested PAAB's support. PAAB voted to publicly support Avalos and stated it was opposed to censorship of art in any form.

On Friday, the American Civil

Liberties Union (ACLU) filed suit on behalf of David Avalos and Sushi, Incorporated. It named as defendants the General Service Administration (GSA), Judge Thompson and Paul Hamilton, field office manager for GSA. It said the permit was canceled by a person with no legal authority for doing so; no legal grounds for cancellation ever arose; and the cancellation was done in violation of Avalos' rights under the First Amendment to the Constitution, violating the right to due process of law under the Fifth Amendment.

Linda Hills, director of the ACLU of Southern California, said it was a case of "censorship based on political content. It's fairly obvious that the judges didn't like the art."

Hills said that the case was unique and that she has never heard of anything like it in her seven years with the ACLU. Judge Thompson couldn't be reached for comment.

Avalos anticipated the piece would be thought-provoking and that there would be a strong response to it. He intended to visit the art daily from 11 a.m. to 1 p.m. and talk to people about it. It would have been a new experience for the artist to engage in conversation with people about art outside of an art gallery.

"I thought this would be an ideal situation just to talk with whomever happened to be around, whether it was a street person or a lawyer, to ask them what they thought of the piece, art in general, art in public and of the issues. Just to talk with people face to face — the judge denied me the opportunity when he removed my art."



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# STREETWORKS

Four Installations created for/about the streets  
**DAVID AVALOS, FRANK GROW, MARIO LARA, MARJORIE NODELMAN**

**JANUARY 4-31, 1986**

Opening Reception: Saturday, January 4 7-10 pm

Gallery Hours: Thursday-Saturday 12-4pm

Outdoor Sites: Lara-24 hour access

Avalos 9-5pm Daily

**DAVID AVALOS**

**"San Diego Donkey Cart"**

**LOCATIONS:** January 4- Street in front of Sushi Gallery  
Eighth Avenue between E and F

Aztec ritual by Guillermo Rosete and performance  
by Poyesis Genetica during reception.

January 5-18 Federal Building, Front and Broadway

January 19-25 Centro Cultural de la Raza  
Balboa Park's Pepper Grove, off Park

Panel Discussion with Herman Baca

January 26-February 4 Southwestern College, Chula Vista

Co-sponsored by Michael Schnorr, Art Department Chairman

This painted wood construction is modeled after the Tijuana donkey carts which are used as backdrops for tourist photographs, creating an ironic situation where the tourist never comes to terms with the gritty realities of modern Mexico. The panel backdrop depicts, instead of the typical scenes, the apprehension of an undocumented Mexican worker by a border patrol agent and a homeless person sleeping in a doorway. "My piece is the work of a contemporary artist living in the tradition of Mexican popular art. By applying this form to the question: How is it that two nations can share a border and two peoples can be part of the same society, yet have so few opportunities for direct social dialogue. I hope to encourage that very dialogue with the other residents and visitors to the Tijuana/San Diego region."

"Streetworks" presents artists' works that have been created specifically for this project and use the "street" as imagery, metaphor, inspiration, and social forum.

"Streetworks" is sponsored by Sushi, Inc./ a non-profit performance and visual art gallery.

This project is funded in part by grants from the National Endowment for the Arts, the California Arts Council, and Art Matters, Inc.

Project Coordinator: Lynn Schuette

Site Coordinator: Mario Lara

Assistant Project Coordinator: Sean Wells



San Diego County

# Los Angeles Times

Sunday, January 12, 1986

## Editorials

### Making a Mountain . . .

U.S. District Judge Gordon Thompson's removal of an artist's work from the U.S. Courthouse plaza last week was high-handed and unnecessary.

The work, "San Diego Donkey Cart" by David Avalos, had been placed on the plaza Sunday night with permission from the General Services Administration. By Monday morning, Thompson and his fellow judges had decided that it presented a grave threat to the safety of the courthouse because the wire that encased the piece made it difficult for security personnel to inspect it for bombs that could be planted overnight.

Thompson said the fact that the work, which juxtaposes the cliché of a Tijuana photographer's donkey cart with a depiction of an illegal alien being frisked by a border patrolman, might be consid-

ered political had nothing to do with the decision to have it removed. That word apparently didn't filter down to GSA officials, one of whom said she thought that, in addition to security concerns, "the judges felt also that it was inappropriate."

When looked at as a political protest, "San Diego Donkey Cart" is a modest one. It portrays an action that the government participates in hundreds of times a day. To view it as a security threat is just plain silly.

In making a mountain of this donkey cart, Thompson assured that thousands of people who never would have seen the piece downtown saw it in the news media, and—at least in the minds of many—he reinforced the message the artist was trying to convey.



# PERSPECTIVE

**Michael Tuck**

10NEWS, P.O. Box 85347, San Diego, California 92138, Telephone (619) 237-1010

South Africa's P.W. Botha would love this one. So would the Phillipines' Ferdinand Marcos. Or any puppet dictator, left or right, who's ever used the catch-all excuse of "security reasons" to suppress free speech.

Want to keep your political opposition from organizing? Easy. Just ban public meetings, for "security reasons". Want to keep the public from knowing what you're doing? Simple. Nationalize the newspapers and TV stations and cite "security reasons". Then, if you're really thin-skinned about anything critical, you just dust off the same old excuse to put a muzzle on artists and poets.

In effect, that's what Federal Judge Gordon Thompson has done in banning a piece of artwork from being shown in front of the Federal Courthouse, downtown. Let me say, first of all, I don't like this art. Surrounded by barbed wire, it shows an undocumented alien being frisked by an immigration official. I think it takes another unfair, cheap shot at the border patrol, for simply trying to enforce a law made 3,000 miles away. This art seems sympathetic to the plight of illegal aliens, but not to the hundreds of border agents who've been shot, hit with rocks, or otherwise assaulted while just trying to carry-out their sworn duties.

But that's not the point here. Who cares what I like in artwork. Or what a federal judge likes, for that matter. The fact is the artist had a valid permit to show his work there, and after one look, the judge revoked that permit for "security reasons".

Thompson said because the artwork is so controversial, he was afraid some kook might try to blow it up. Well, that won't wash. Since when should anybody's first amendment right be taken away just because of what some kook might do? Should we be kept from doing investigative reporting and commentary because somebody might be offended and retaliate? Should you be prevented from criticizing the government for your own good . . . for "security reasons"?

People like Marcos and Botha might think so, and now, a federal judge apparently agrees.

I'm Michael Tuck, and that's my perspective.


AIRD ON KGTU JANUARY 8, 1986.



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# THE TRIBUNE

HELEN K. COPLEY, *Publisher and Chairman, Editorial Board*

 A Copley Newspaper

NEIL MORGAN, *Editor*

ROBERT M. WITTY, *Deputy Editor*

WALT MILLER, *Managing Editor*

RALPH BENNETT, *Chief Editorial Writer*

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San Diego, California, Thursday, Jan. 9, 1986

Telephone 299-3131

Page B-10

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## 'San Diego Donkey Cart' outrage

TWO ERRORS were made in the case of the artwork installed in front of the Federal Courthouse Sunday night and removed Tuesday by order of the federal judges who work in the courthouse.

The artwork, titled "San Diego Donkey Cart," is an assemblage behind chickenwire, depicting a Mexican seated in a donkey cart of the type parked on Tijuana's main street as a prop for photographers to take souvenir shots of American tourists. But, in the artwork, the Mexican is being frisked by a U.S. border patrolman. Signs on the assemblage say, "Bienvenidos Amigos" and "Raza Si, Migra No," that is, "Welcome, friends" and "The Mexican people yes, the U.S. Immigration Service no."

It is understandable that the federal officials who work in the courthouse were offended by the political message of this exhibit. They spend all of their working lives trying to enforce the provisions of the U.S. Constitution and federal law, including immigration law. They saw the artwork as an insult.

Freedom of artistic expression is guaranteed by the First Amendment, but the federal government has the right and duty to maintain the dignity of its public premises. The first mistake was made by the government when the U.S. General Services Administration granted permission for the artwork to be exhibited for two weeks in the courthouse plaza. The artwork obviously violated the government's own guidelines on art displays in and around public buildings. Political and religious propaganda is sup-

posed to be screened out. This piece of political propaganda was approved.

The second mistake was made by the 11 judges who held a meeting in the courthouse Monday. They acted quickly in ordering the artwork removed. The pretext was that it offered a security risk because a bomb could be planted inside it. Flimsy pretext.

Summary action was unjustified and unjudicial. We discount the security aspect and believe no great damage would have been done by allowing the assemblage to remain in place for two weeks, when it would have been removed without controversy. The government's second mistake was worse than its first. It gave excuse for cries of censorship and attracted much greater attention to the artwork than if the judges had simply ignored it.

The display would be more appropriate on the steps of the Capitol in Washington. That is where the fault lies for the failure to enact a workable and just U.S. immigration law. Those who are trying to enforce the existing law are doing their best, but our defective law does cause great injustice.

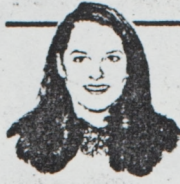
Thousands of illegal aliens suffer because of the hypocrisy of American employers who attract them with the offer of good jobs, then exploit them as cheap and willing workers. These employers are sheltered by their friends in the Congress from any prosecution for flouting U.S. immigration law.

It's a far greater outrage than anything depicted in the offending artwork.



# The San Diego Union

Monday, January 13, 1986



**Anne Marie  
Welsh**

... on the arts

• • •  
**Censorship:** After hearing testimony by David Avalos, the San Diego artist whose work was removed last week from the plaza of the Federal Courthouse downtown, the city's Public Arts Advisory Board (PAAB) issued a brief statement on Thursday.

"We, the Public Arts Advisory Board, are against censorship in the arts in any form," the statement says.

Federal judges called the work, "San Diego Donkey Cart," a security risk when they voted unanimously last week to remove it. Avalos and many other observers say the political content of the installation, which depicted an undocumented worker being frisked by an immigration officer, led to its dismantling.

PAAB will also seek approval from the City Council for a letter asking the judges to reconsider their decision and reinstall the sculpture.

Meanwhile, Greg Marshall, an attorney for the American Civil Liberties Union, is seeking to have the order revoked and the piece reinstalled by the General Services Administration which last month issued permits for its installation.

Avalos says he hopes the "injunctive relief" will come early this week since the Streetworks exhibit, of which "San Diego Donkey Cart" is a part, closes on Jan. 17.

• • •



# The San Diego Union

Tuesday, January 14, 1986

## Readers Write

### Censored art

Just when we thought we were free of the philistines, Judge Thompson showed us how to stifle the flames of discontent. Alarmed at the donkey-cart assault on his Mussolini-modern fortress, he fought back with a cudgel of a court order to crush the *object d'art*.

The Soviets told Jamie Wyeth why they censored art: 'Never underestimate the power of a painting.' "Maximum Gordie," with the finesse of a bulldozer, demanded removal of the officially approved work of David Avalos, fearing it would attract kooks as well as admirers, and proved to the world he could stomp upstart Chicanos as well as miscreants.

To echo S. J. Perelman's lament about the judiciary, "How can you expect justice from an old man in a dress?"

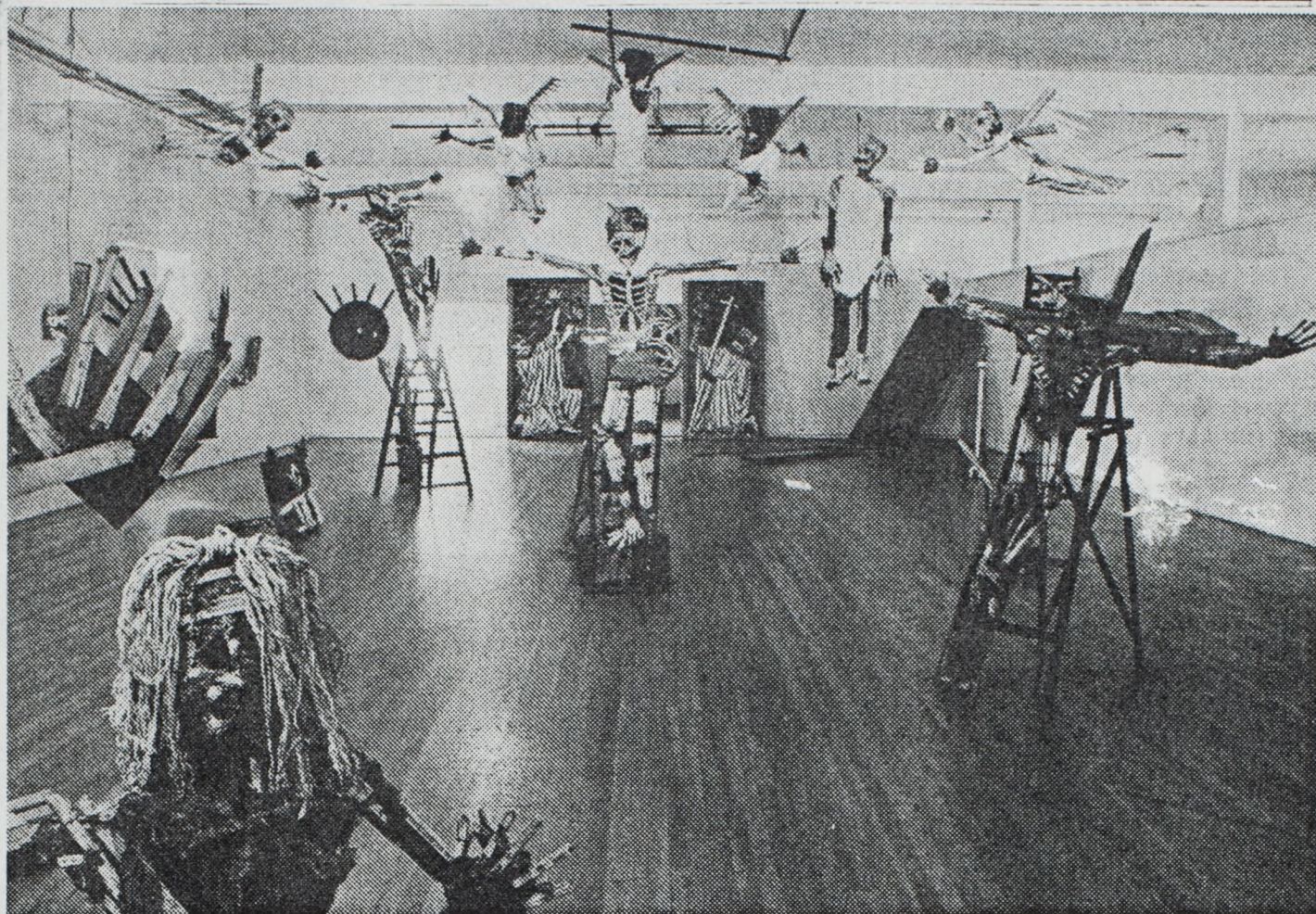
GORDON FREVEL  
Mission Beach



# Los Angeles Times

Friday, January 10, 1986

## AT THE GALLERIES / Robert McDonald



"Cruci-fiction No. 3," by artist Frank Grow, is on display at the Sushi Gallery in San Diego.

**S**AN DIEGO—Art matters here!

After much controversy, Ellsworth Kelly withdrew his proposed sculpture, depriving "America's Finest City" of a major public work of art by a recognized American master.

Now a simulacrum of a Tijuana donkey cart has been removed from the U.S. Courthouse plaza, creating a censorship controversy that may alienate many in the art community and, more importantly, the Chicano community.

The donkey cart sculpture by David Avalos, a highly respected figure in the San Diego art scene, depicts a Mexican illegal immigrant being searched by a Border Patrol officer. In Tijuana, such carts are used as props for photos of tourists, usually wearing sombreros and serapes. An innocuous structure transformed by Avalos into a social commentary has thus become a political cause.

Avalos' piece is one of four in the "Streetworks" exhibit sponsored

by San Diego's performance gallery, Sushi (852 8th Ave.), using the street as imagery, metaphor, inspiration and social forum. The cart appeared as a backdrop for two events last Saturday evening during the exhibition opening, a satirical performance by Poyesis Genetica commenting on Mexican-American relations and an Aztec ritual dance by dancer-artist Guillermo Rosete.

Avalos' purpose was to create "direct social dialogue." He has.

San Diego seems to be recapitulating the art history of Los Angeles 20 years ago, when authorities objected to the works of Edward Kienholz and Wallace Berman, or more recently of Oakland, where a superb Mark Di Suvero sculpture was removed from its Lake Merritt site at the behest of another judge.

Another "Streetworks" piece is at Horton Plaza park, near Robinson's. The structure, a cage, is by installation artist Mario Lara. Entitled "Topophobia," its purpose is "to investigate the search for secu-

rity in an increasingly alienating environment." Lara has made works of exceptional beauty in the past. This work misfires, however, because it does not support its intellectual and emotional purpose. Marjorie Nodelman shows a group of shaped paintings entitled "Roadscapes" in Sushi's lobby. Using road symbols in jarring patterns, she creates a sense of automobile travel as a hallucinatory kind of experience.

"Cruci-fiction No. 3" by former San Diego State University graduate student Frank Grow fills Sushi's performance space. The artist customarily uses abandoned industrial buildings in Los Angeles for his installations, made of found materials. He constructs his works using a camera as a siting device for the placement of figurative components, often disjointed, throughout the space. To experience the installation as a whole, a viewer must look at it from the points where the artist initially

positioned his camera. The work at Sushi is a grotesque, but impressive, version of the Crucifixion of Jesus of Nazareth. Entering from the back, the visitor walks through its standing and hanging parts, which look like an orderly mess. You recognize a torso, arms and legs hanging at a distance from one another, for example. Seated in a "throne" at the far end of the space, you experience the work as a whole. From five other viewpoints you see demons come into view throughout the scene. Frank Grow is an artist to take note of.

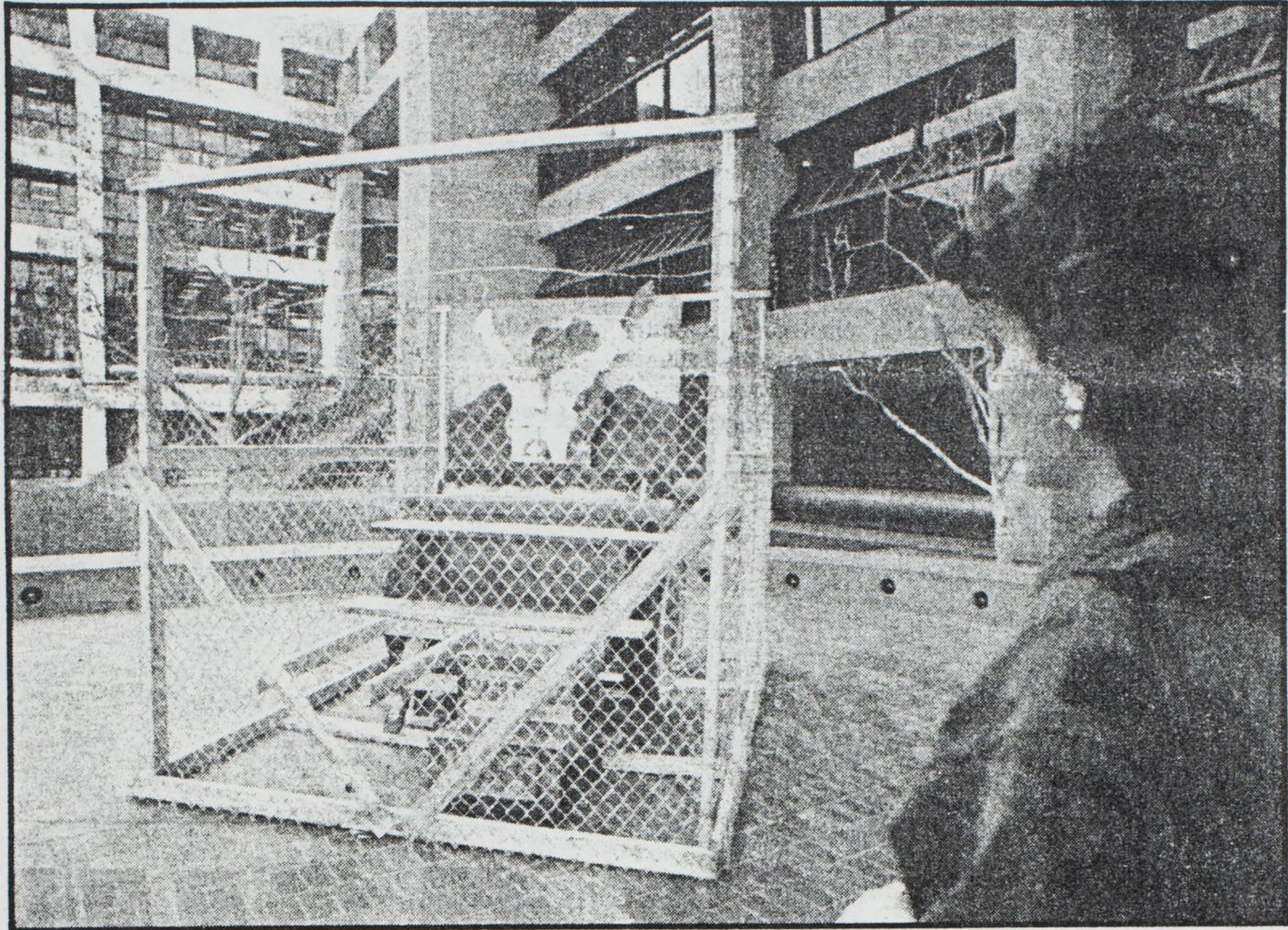
The show continues through Jan. 31.

□

In contrast to Sushi, Santa Fe West Galleries (622 5th Ave.) offers nothing controversial. It



San Diego, California, Tuesday, Jan. 7, 1986



Tribune photo by Scott Linnett

**CONTROVERSIAL ARTWORK BEFORE IT WAS REMOVED**  
A passer-by views the sculpture by David Avalos that was on display for two days

## Controversial sculpture is removed from downtown courthouse display

By John McLaren

*Tribune Staff Writer*

A life-size sculpture by National City artist David Avalos has been removed "for security reasons" from a display site in front of the downtown federal courthouse.

Chief U.S. District Judge Gordon Thompson Jr. yesterday ordered the General Services Administration to remove the work, a rendition of a Tijuana tourist donkey cart carrying a depiction of an immigration inspector frisking a Hispanic-looking man.

The sculpture, done in a style known as "assemblage," was placed on the lawn outside the court building on Saturday.

The work, in bright shades of green, red and blue and surrounded by fencing topped by barbed wire, attracted many curious stares yesterday before it was taken down last night.

Mary Filippini, a San Francisco-based spokeswoman for the GSA, said the exhibit was being held for Avalos, a well-known artist who is artist-in-residence at the Centro Cultural de la Raza here.

Avalos, who could not be reached for comment, was conferring today with attorneys for the American Civil

Liberties Union and planned a news conference later in the day to discuss the issue. He was notified of Thompson's order but did not show up to remove the sculpture himself, Filippini said. It was taken down by GSA workers and is being stored in the basement of the federal building.

Judge Thompson issued the order on his own initiative. It was in the form of a short letter asking the GSA "to remove the (sculpture) immediately for security reasons." The GSA is the federal government's property manager, responsible for maintaining most federal buildings.

The work, titled "San Diego 1984," is built around the full-size two-wheeled donkey cart. One scene shows a man lying on the ground over the words, "private dreams, public spaces." The other scene is of the immigration agent laying hands on what appears to an alien.

Filippini said the GSA normally encourages artists to display their work inside and around government buildings under a program known as "living buildings."

She said a permit issued for a display of the donkey cart sculpture was issued to someone representing Avalos.



San Diego County

# Los Angeles Times

Wednesday, January 8, 1986

## Judge Orders Removal

### Artist's Donkey Cart Gets Its Walking Papers

By HILLIARD HARPER, San Diego County Arts Writer

Art and law clashed Tuesday after local artist David Avalos' "San Diego Donkey Cart" was ordered removed from the U.S. Courthouse plaza by a federal judge.

The judge who ordered the removal said the artwork was a security risk. Avalos, an outspoken Latino artist with substantial credentials as an advocate of Chicano causes, called it a violation of his rights. The American Civil Liberties Union joined the fray and has vowed to file a court action, but a spokesman was unsure where to file the legal response.

Gordon Thompson, chief judge of the U.S. District Court, issued the directive that pulled the offending artwork. Avalos cried censorship, disagreeing that the sculpture posed a security risk. He says the cart was unceremoniously yanked because of its social content.

The cart, modeled after a Tijuana donkey cart, is a full-sized artwork that depicts a Mexican illegal immigrant being apprehended by a border patrolman, rather than tourists sitting in the cart for a

picture. It carries the inscriptions "Bienvenidos Amigos" and "Raza Si, Migra No," which translate as "Welcome friends," and "People yes, immigration officials no."

"San Diego Donkey Cart" was part of "Streetworks," an exhibit by four artists sponsored by Sushi performance and art gallery. The U.S. General Services Administration granted permission Dec. 10 to exhibit the artwork for two weeks at the courthouse plaza, 940 Front St., as part of the "Streetworks" exhibit. Two of the other three works are at the gallery and the third is in Horton Plaza park.

The cart was installed Sunday. After the weekly District Court judges' meeting Monday, where Avalos' artwork became an issue, Thompson told the GSA to remove the cart.

**Please see CLASH, Page 7**

PHILLIP DAVIES

David Avalos holds a model of his "San Diego Donkey Cart."





# CLASH: Judge Orders Donkey Cart Removed

Continued from Page 1

"Because it was enclosed with chicken wire, or something, and there was not a way to see through it or get in it, it posed a security risk," Thompson said. "It was sort of an invitation for a kook to do some harm to it or the building . . . some kook who might put an incendiary or explosive device into it."

The wire was installed to protect the artwork from vandals, a concern of the GSA when the original arrangements were made.

Thompson cited an incident in 1985 when a disgruntled welfare recipient crashed a truck into the courthouse doors. "We're just trying to protect our courthouse," he said.

So on Monday, Avalos was informed in a letter signed by GSA field director Paul Hamilton that his permit had been revoked in accordance with federal regulations and "for the security of the building and its occupants."

Avalos refused to retrieve the cart. At 10:30 p.m. Monday, GSA officials dismantled the cart and placed it in the basement of the Federal Building.

Security was the only reason for removing Avalos' artwork, Thompson said. Censorship, he said, was not a concern. "Until I saw the TV last night, I didn't know what it was depicting," Thompson said of the cart.

Greg Marshall, ACLU legal director, which has taken on Avalos as a client, disagreed with Thompson's reasoning.

"I don't know what the judge meant by security reasons," Marshall said. "There are plenty of places inside the building that are better places to hide a bomb. If that logic were used generally, we'd have an awfully repressive society. It could be used to censor any kind of artistic expression. Assuming that you could make the case that someone might put a bomb in it, I don't think there is any legal basis for removing it because of that."

Hamilton was unavailable for comment Tuesday, and inquiries made at his office involving the cart were referred to the GSA regional office in San Francisco.

Mary Filippini, a GSA spokeswoman in San Francisco, said that, in addition to the security concerns

cited, "I think the judges felt also that it was inappropriate. The GSA feels also that it was inappropriate."

Filippini acknowledged that information about the artwork and Avalos' social statements as an artist were presented when the permit was requested. "I think at that time the GSA field office did not realize the statement that the work made," she said.

Filippini said that GSA encourages art and performance in public buildings, but as a rule screens out works involving political or religious statements.

"In this particular case we probably didn't screen [the donkey cart] enough," she said. "It might be appropriate for another place in the city. We do not want to offend people. A public building belongs to all the people." She said it was important that federal buildings not hold art or performances that are offensive. "Another area is the use of nudes or sex. That is appropriate for some places. It is inappropriate for a federal building," she said.

Other than Thompson, no judges who were reached would comment on the donkey cart. One federal court officer, who would not speak for attribution, said that if a chief judge doesn't like the looks of something "it's gone."

"It sounds like we've got some real Neanderthals out in the bushes," Avalos said. "Would a guy like Thompson consider a movie by Stallone a political statement or go get his autograph? I think the onus is on them to define how the piece is political and give us a specific interpretation."

"Secondly, how could one bureaucrat think that it fit the rules and another not raise the issue until only after the judge responded to the piece? We're willing to play by the rules. Here's a judge who's abusing his power."

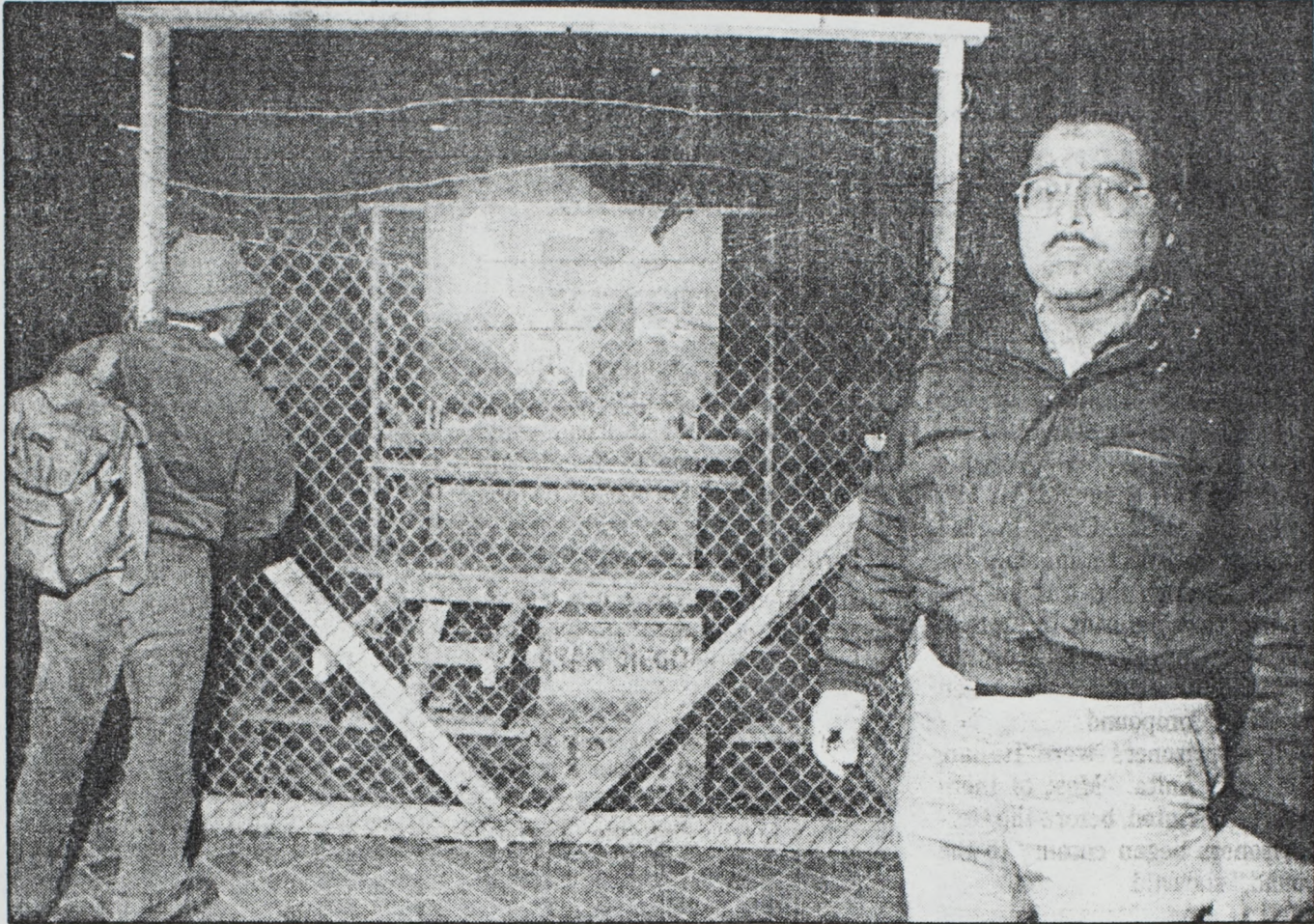
Lynn Schuette, director of Sushi, said she was "surprised the Federal Building allowed it to be exhibited in the first place."

The cart includes steps into the wagon labeled San Diego and 1984, a reference to George Orwell's novel about government intervention into private lives. Avalos said he chose the number because "it's always 1984 in San Diego."



# The San Diego Union

Wednesday, January 8, 1986



The San Diego Union/Janice Gordon

David Avalos with the exhibit ordered removed from the courthouse area.

## Judge orders removal of artwork

By Ed Jahn  
Staff Writer

"San Diego Donkey Cart," an assemblage by National City artist David Avalos, is supposed to "encourage direct social dialogue," according to the flier announcing its installation this week in front of the Federal Courthouse downtown.

The artwork, showing an undocumented alien being frisked by an immigration official atop a Tijuana tourist cart, lasted only a day before Chief U.S. District Judge Gordon Thompson made his own art statement.

Yesterday, Thompson overruled an earlier approval for the installation and ordered the work disassembled and removed. Thompson said the structure, along with

the barbed-wire-topped fence surrounding it, presented "a security threat" to the courthouse.

Avalos, who is the artist-in-residence at the Centro Cultural de la Raza in Balboa Park, had intended to spend his lunch hour with the assemblage talking to bystanders during the work's planned two-week stay at the courthouse. Now he says he will be doing his talking in court and with the media.

Avalos said he believes Thompson may have taken offense because the federal court system handles many undocumented-alien cases.

The American Civil Liberties Union chapter here

See ART on Page B-4



Continued from B-1

said it is preparing a federal lawsuit to have the work returned. Members of the city's Public Arts Advisory Board said the judge's actions were "an insult to the community" and leaders in the Chicano community called his act "clear and simple political repression."

"I refuse to submit to a violation of my freedom of expression," said Avalos yesterday while he passed out copies of the General Services Administration (GSA) approval on Dec. 10 for setting up the piece and Thompson's memo to take it down.

"The idea that that work represents a security threat is complete baloney. Does he think someone is going to put a heat-seeking missile or thermonuclear device inside it?" Avalos said.

"I played by the book and got the permit," he added. "Now a federal judge is acting as art censor and trying to put on a cover-up."

Thompson said it was a decision made by all 10 federal judges at the courthouse along with a Circuit Court judge who attended a weekly administrative meeting on Monday.

"We didn't know if some kook would get into this chicken wire and box arrangement in the middle of the night and plant some bomb. We've got those kooks out there," Thompson said.

As an example, Thompson said, a woman ran a pickup truck into the front of the federal office building several months ago because she said her Social Security supplementary income check was overdue.

As for whatever political state-

ment the work might be making, Thompson said, "That was not discussed at the meeting. I did not interpret (the work) as being political." Thompson added that it was impossible to work out a compromise "because security risks call for a summary judgment."

The Avalos assemblage was subsidized through a \$2,700 grant from the National Endowment for the Arts, according to Lynn Schuette, director of the non-profit Sushi Gallery that is sponsoring a "Streetworks" show involving Avalos and three other artists.

"Mario Lara, one of the other artists in the show, submitted the request with the GSA and it included a color Xerox of the piece, a description and various critical reviews of Avalos' work," she said.

The full-scale work was installed Sunday night and by noon Monday, Avalos had received a request from Paul Hamilton, GSA field manager, to remove the assemblage. Hamilton was acting under the direction of Thompson, according to the judge's memo.

Avalos said he refused to remove the work and yesterday federal employees took it apart and stored it in the courthouse basement.

"Has Judge Thompson declared martial law in San Diego?" asked Herman Baca, chairman of the Chicano Rights Organization.

Baca said he is demanding that Thompson apologize to Avalos and the Chicano community. "It is a political act of repression to silence any of the few voices coming out in defense of the undocumented, the exploited and the victimized," he said.



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# THE TRIBUNE

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San Diego, California, Wednesday, Jan. 8, 1986

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## ACLU to fight for banned art

### *U.S. Courthouse removal of work denounced*

By Vicki Torres  
*Tribune Staff Writer*

David Avalos, an artist whose controversial work was removed Monday evening from display in front of the downtown U.S. Courthouse for "security reasons," has enlisted the American Civil Liberties Union, which plans court action to get the piece restored.

"The right to due process was violated, and Mr. Avalos's First Amendment rights," said Greg Marshall, legal director of the San Diego Chapter of the ACLU. "The reason for removing it seems very clearly content-related."

The artist appeared with Marshall at a press conference yesterday at the courthouse. Avalos said his work raised the question of "where do you go in public to think about federal concerns?"

Chief U.S. District Judge Gordon Thompson Jr. said yesterday that he ordered the piece removed after federal security guards notified federal judges that the work's boxlike construction could provide a hiding place for bombs.

Federal judges at their regular Monday meeting decided, without discussing the content of the work, to have the piece removed, Thompson said.

"I didn't even know it had a political content," Thompson said. "Whatever the ACLU, the artist or anyone else wants to read into this, that's their prerogative, but we did not discuss anything other than security."

Marshall said he had not decided whether to take ac-

tion in U.S. District Court or in the 9th U.S. Circuit Court of Appeals.

Mary Filippini, regional director in San Francisco for the General Services Administration, said the agency's Living Buildings Program, which allows for public art in federal buildings, usually does not exhibit artwork concerning religion, strong political statements or sexual themes.

"The federal government represents all people and we can't be put in the position of offending someone," Filippini said. "Unfortunately, the people who issued the permit did not realize the piece made as strong a statement as it did."

The work, titled "San Diego Donkey Cart," is a life-size, painted wood construction modeled after Tijuana's tourist donkey carts. Instead of smiling tourists posing for a camera, it contains a Hispanic man being frisked by a Border Patrol agent and, on the back, a sleeping man below the words "private dreams, public spaces."

The cart is enclosed in a wood and chain-link fence topped by barbed wire.

It was commissioned by the downtown Sushi Gallery, which got a \$2,700 grant from the National Endowment for the Arts for construction of Avalos' work and that of three other artists, said Lynn Schuette, gallery director.

The art work is scheduled for display Jan. 19 to 25 at the Centro Cultural de la Raza and Jan. 26 to Feb. 4 at Southwestern College in Chula Vista.



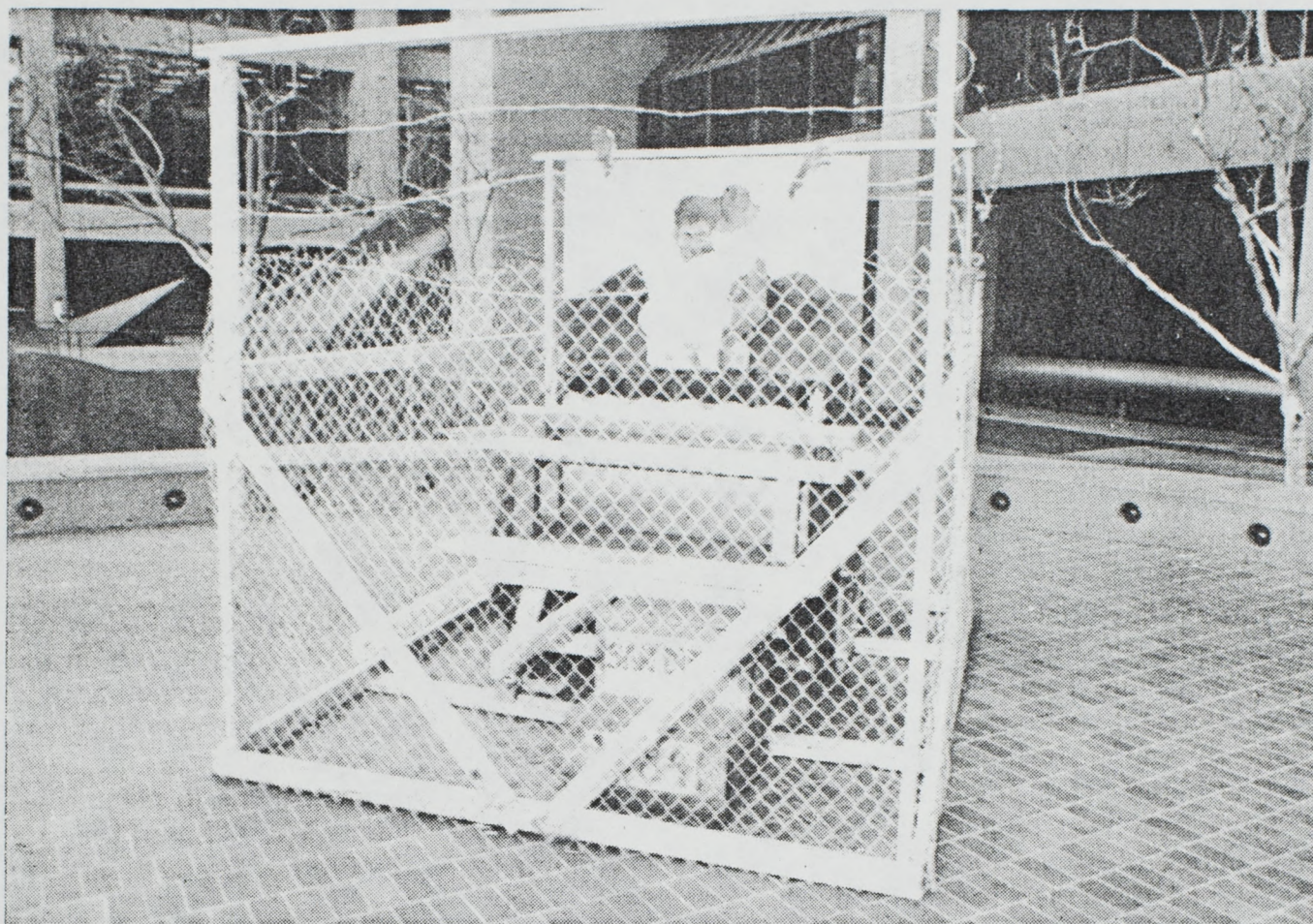


January 10, 1986

**La Prensa San Diego**

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# Censorship On Local Artist By U.S. Federal Judge



Actual art work "San Diego Donkey Cart" by artist David Avalos

by **Daniel L. Muñoz**

Almost unnoticed, censorship was imposed on the region of San Diego by Chief U.S. District Judge Gordon Thompson. Thompson by royal fiat ordered the removal of National City's artist, David Avalos, work "San Diego Donkey Cart," on January 6, 1986, from the front of the Federal Court Building. In the judge's opinion the work presented a "security threat" to

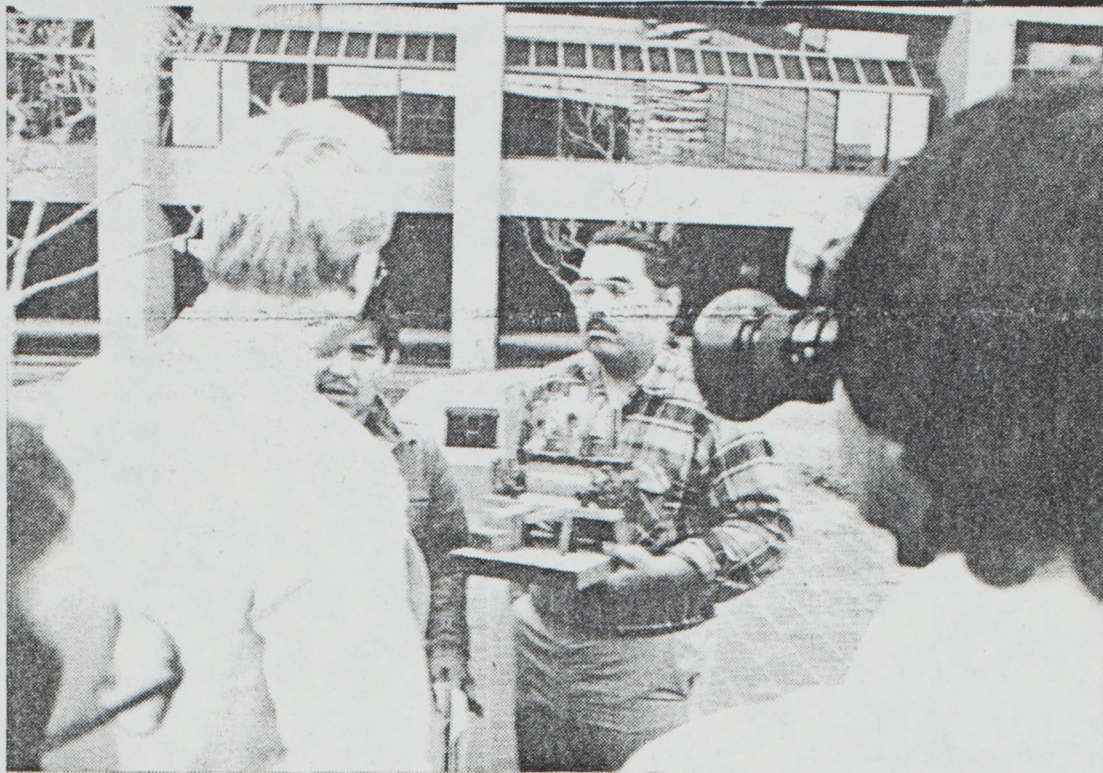
the courthouse!

The art piece was part of a Streetworks show of four installations funded in part by the National Endowment of the Arts, the California Arts Council and Art Matters, Inc. Project coordinator, Lynn Schuette had made the arrangements and had secured the proper permits for the mounting and exhibition of the show in front of the Federal courthouse.

Avalos, who is an artist in

residence at the Centro Cultural de La Raza in Balboa Park, was contacted by the building manager, Paul Hamilton, and informed of Judge Thompson's arbitrary orders. "This is a blatant violation of my freedom of expression," Avalos told the media at a hastily arranged press conference in front of the Federal Court House. "That my work presents a security threat is nothing but pure baloney. The judge is attempting to act





*David Avalos (center) along with Herman Baca talk to the media over removal of art work.*

as art censor and trying to put on a cover-up," said Avalos.

The assemblage is a critical work which depicts the apprehension of an undocumented Mexican worker by a border patrol agent and a homeless person sleeping in a doorway. It is made of painted wood and is modeled after a Tijuana donkey cart. It attempts to focus in on the irony that American tourist often times only sees the donkey and the cart but never the realities of Mexico.

Thompson, who indicated that he issued his infamous memo after a meeting with 10 U.S. Judges and a Circuit Court Judge, at an administrative meeting on Monday, Jan. 6. "We didn't know if some kook would get into this chicken wire and box arrangement and plant a bomb," said Thompson, as justification for playing censor and denying Avalos' civil rights.

As justification for ordering

the removal, Avalos was informed that action was taken based on the provisions of Federal Property Management Regulations, Title 41, Code of Federal Regulations, Chapter 101, paragraph 101-20.7. A review of the instruction quickly made clear that none of the reasons cited by Judge Thompson were listed in the regulations.

"The act was a simple clear cut case of Political repression," accused Herman Baca, chairman of the Committee on Chicano Rights, who along with other concerned members of the community attended the press conference.

"Judge Thompson is attempting to silence Avalos in violation of his 1st Amendment guarantees. Thompson has reduced the federal judiciary to the level of those in South Africa, Chile, Guatamala and other despicable totalitarian states," said Baca.

Baca, Avalos and representatives of the ACLU asked by





ACLU guarantees lawsuit over enfringement of rights.

what legal authority and power did Judge Thompson and his cronies impose censorship. "What process was used to determine that the people in San Diego can not now enjoy freedom of speech, unless they approve?", they said.

According to Linda Hill, director of the local chapter of the ACLU there will be a lawsuit filed on this matter. "We are trying to process all the paper work so that we can file it today (Jan. 9). However if we are not able to complete it, we will file on Friday. The suit will charge a failure of due process and denial of First Amendment Rights."

Attorney Greg Marshall, who will be representing

Avalos will file for a restraining order and injunction. He will request that a Federal Judge revoke the order. And, order the art work be replaced in the exact place and manner as previously. And, that the art work remain on display until Jan. 17th as previously agreed to.

This is not the first time that San Diego law enforcement community has attempted to censor Chicano art. Sheriff John Duffy also made an effort to have removed from the County Administration Building a photography art show which was sponsored by the Centro Cultural de La Raza. Duffy failed in his efforts and the show went on.



# Los Angeles Times

January 11, 1986

## ACLU Files Against Judge Who Killed Donkey Cart Art

By HILLIARD HARPER, San Diego County Arts Writer

A federal judge who ordered artwork removed from the U.S. Courthouse plaza has been named as a defendant in a lawsuit filed in his own court.

The suit, filed Friday by the American Civil Liberties Union on behalf of artist David Avalos and Sushi performance and art gallery, names Chief U.S. District Court Judge Gordon Thompson as a defendant, as well as the U.S. General Services Administration and GSA field director Paul Hamilton.

After filing the suit, the ACLU, upon hearing that it was likely that all the district judges would excuse themselves from hearing the case, sought an immediate hearing in the U.S. 9th Circuit Court of Appeals in San Francisco.

In related matters, the San Diego City Council's Public Arts Advisory Board unanimously passed motions condemning censorship of artworks and requesting that the City Council send a letter to Thompson asking the judge to reconsider his action.

The chain of events began Sunday when Avalos installed his "San Diego Donkey Cart" on the courthouse plaza. The full-size artwork portrays a border patrolman apprehending an undocumented Mexican illegal immigrant. The cart, modeled after a Tijuana donkey cart, carries the legend "Raza Si, Migra No," which translates as "the people yes, immigration officials no." The Federal Building, which is adjacent to the plaza, contains offices of the Immigration and Naturalization Service.

On Monday afternoon, Thompson ordered GSA's Hamilton to remove the cart for security reasons. Avalos was then informed in a letter signed by Hamilton that his permit for the exhibit had been revoked, and the letter demanded that the cart be removed.

The ACLU suit also seeks a temporary restraining order, which would put the artwork immediately back on view.

It alleges that Thompson unlawfully directed Hamilton to remove the cart for security purposes. "The judicial powers of this court extend

only to cases or controversies, neither of which was brought before the court, and therefore the purported exercise of judicial power was void," the complaint states. Hamilton felt "compelled by the judicial power" of the court and had the cart removed, the complaint alleges.

"We're alleging that the cancellation of the permit was unlawful," Greg Marshall, an ACLU attorney, said, "and are requesting the restraining order because the idea is to get relief immediately, pending a full hearing."

"There's no reason to put the piece there three months from now, and Mr. Avalos has his own plans for the piece," Marshall said. "Additionally, [the removal] is a gross violation of his rights. It's continuing every minute and should be brought to an end at the earliest possible moment."

### A 'Classic Case'

Linda Hills, director of the San Diego Chapter of the ACLU, called the removal of Avalos' artwork "a classic First Amendment case. We think this is censorship based on political content and we're concerned about the due process aspect of it. It was ordered removed in a preemptory way. There was no process followed to have it removed."

The cart is one of four works in the "Streetworks" show sponsored by Sushi gallery but was the only one placed at the courthouse, 940 Front St. When Avalos refused to remove the cart, GSA officials dismantled it and put it in the basement of the Federal Building.

At Thursday's meeting of the Public Arts Advisory Board, Avalos spoke about the removal of his artwork. Eight of the nine board members were present and unanimously passed the motions requesting Thompson to reconsider his decision and stating that the board is "against censorship of the arts in any form."

Ed Pieters, who heads the advisory board, said that, "Speaking as

an artist, if it is proven to be a case of censorship, I think Judge Thompson has posed a serious threat to the creative freedom of artists and writers working in the United States. This is no small matter."

Pieters acknowledged that the donkey cart was controversial, "but so was Martin Luther King. I'm upset by this whole matter myself. It's not in the tradition of this country to do this. It's like a Berlin Wall down there."

### Attracted Attention

Artist Wick Alexander, who works at the federal Metropolitan Correctional Center, was "really surprised to see it in front of the courthouse. When I passed by [the donkey cart] Monday, it was lunch hour and quite a crowd was looking at it," Alexander said. "They were scratching their heads and wondering what was going on. But they seemed interested and not outraged."

District Judge Earl B. Gilliam excused himself Friday from hearing the ACLU suit because of knowledge of the incident. The donkey cart was discussed at a meeting of all 10 judges of the District Court. It was at this meeting, Thompson has said, that concerns were voiced about the cart posing a security risk. When Gilliam's court clerk indicated that it was likely that all of the District Court judges would excuse themselves, the ACLU sought the hearing with the Court of Appeals on the temporary restraining order. The appeal court had not responded to the request by late Friday.

On Thursday, Thompson said: "These people are trying to read something into this that wasn't there." He said that the nature of a courthouse creates a "volatile" atmosphere.

"We have some pretty volatile people just walking the hall," Thompson said. The donkey cart, he feared, "might give them a potential vehicle" to damage people, the courthouse or the artwork.



# The San Diego Union

Saturday, January 11, 1986

## Banning of donkey art appealed

### Federal judges here can't hear it; higher court asked

By Ed Jahn  
Staff Writer

A San Diego artist tried to take his controversial donkey cart before the federal court here yesterday, but couldn't find a judge who has not become personally involved in the issue.

David Avalos, the artist who constructed "San Diego Donkey Cart" — only to have it ordered removed Monday from a brick courtyard in front of the downtown federal courthouse — then took his request for a temporary injunction to a higher court.

By the end of the day, it appeared that his case will not be heard until sometime next week. Since Avalos' permit to show the artwork was only for two weeks, that would mean a decision on the case could come after his permit has expired, according to his attorney.

Yesterday's problems began shortly after Greg Marshall, Avalos' attorney through the local chapter of the American Civil Liberties Union, filed a complaint in federal court here asking that the donkey-cart art assemblage be returned to the site, under provisions of a General Services Administration permit received on Dec. 10.

Chief U.S. District Judge Gordon Thompson, who ordered the structure removed on the grounds that it presented a security risk, then sent the case yesterday to U.S. District Judge Earl B. Gilliam.

Gilliam promptly bowed out be-

cause he had participated in the Monday meeting of federal judges during which the problem of the donkey cart was discussed.

It turned out that all 10 local federal judges were at the meeting, so Marshall decided to take the case to the 9th U.S. Circuit Court of Appeals.

Linda Hills, director of the local ACLU chapter, said yesterday: "We're asking the 9th Circuit Court to hear it either today (Friday) or tomorrow, because the middle of next week is too late in our point of view."

"San Diego Donkey Cart" is a depiction of the tourist carts hitched to burros painted with stripes that photographers use on the street corners of Tijuana.

Instead of tourists in floppy sombreros, Avalos put an undocumented alien being frisked by an immigration official in his cart. He added the words "Bienvenidos Amigos" and "Raza Si, Migra No," which translate "Welcome Friends" and "People Yes, Immigration No."

Avalos got permission to exhibit the work in front of the federal courthouse as part of the non-profit Sushi art gallery's "Streetworks" exhibit. Works by three other artists in the show are located at the gallery and at Horton Plaza.

The cart, surrounded by a fence topped with barbed wire, went up Sunday night, and by Monday noon Judge Thompson was directing federal staffers to rescind permission for the cart exhibit. Thompson said he was worried that "some kook" would plant a bomb in the art assemblage. During a weekly meeting of federal court judges, it was agreed to order the cart removed, Thompson said.

Avalos, who lives in National City, is an artist in residence at the Centro Cultural de la Raza in Balboa Park and is outspoken in his advocacy of Chicano rights. He dated his work 1984, explaining: "It's always 1984 in San Diego."



**APPLICATION/PERMIT FOR USE OF SPACE  
IN PUBLIC BUILDINGS AND GROUNDS**

FORM APPROVED  
OMB NO.  
3090-0044

**INSTRUCTIONS:** Please submit with this application a copy, sample, or description of any material or item proposed for distribution or display. Type or print in ink all items. Failure to complete this form, shall result in denial of a permit.

**PART I - APPLICATION**

1A. FIRST, MIDDLE, LAST NAME OF APPLICANT <b>DAVID ERNEST AVALOS</b>		1B. COMPLETE MAILING ADDRESS <b>708 "D" AVE. NATIONAL CITY CA 92050</b>	
1C. TELEPHONE NUMBER <b>(619) 235-6135</b>		2B. COMPLETE MAILING ADDRESS <b>708 "D" AVE. NATIONAL CITY CA 92050</b>	
2A. NAME OF PERSON OR ORGANIZATION SPONSORING, PROMOTING, OR CONDUCTING THE PROPOSED ACTIVITY <b>DAVID ERNEST AVALOS</b>		2B. COMPLETE MAILING ADDRESS <b>708 "D" AVE. NATIONAL CITY CA 92050</b>	
2C. TELEPHONE NUMBER <b>(619) 235-6135</b>		3B. COMPLETE MAILING ADDRESS <b>SUSHI 852 EIGHTH AVENUE SAN DIEGO, CA 92101</b>	
3A. NAME(S) OF PERSON(S) WHO WILL HAVE SUPERVISION OF/AND RESPONSIBILITY FOR THE PROPOSED ACTIVITY <b>LYNN SCHUETTE</b>		3B. COMPLETE MAILING ADDRESS <b>SUSHI 852 EIGHTH AVENUE SAN DIEGO, CA 92101</b>	
3C. TELEPHONE NUMBER <b>(619) 235-8466</b>			
4. DESCRIPTION OF PROPOSED ACTIVITY  <b>SEE ENCLOSED PACKET</b>			

5. PROPOSED BUILDING AND AREA  
**FEDERAL COURTHOUSE (SEE ENCLOSED MAP)**

6. PROPOSED DATES AND HOURS DURING WHICH THE ACTIVITY IS TO BE CARRIED OUT			7. APPROXIMATE NUMBER OF PERSONS TO BE ENGAGED IN THIS ACTIVITY (If known) <b>2</b>
A. FROM <b>4 JAN 86 - 17 JAN 86</b>	B. TO <b>←</b>	C. HOURS <b>24 HOURS/DAY</b>	

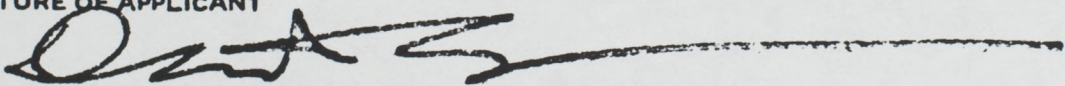
**IMPORTANT:** If applicant purports to represent an organization, a letter or other documentation that the applicant has authority to represent that organization is required to be submitted with this form.

8. APPLICANTS PROPOSING TO ENGAGE IN THE SOLICITATION OF FUNDS MUST CHECK ONE OF FOLLOWING STATEMENTS:

I HEREBY CERTIFY THAT:

- A. I represent and will be soliciting funds for the sole benefit of a religion or religious group;
- B. My organization has received an official Internal Revenue Service (IRS) ruling or letter of determination stating that the organization or its parent organization qualifies for tax-exempt status under 26 U.S.C. 501 (c)(3), (c)(4), or (c)(5); or
- C. My organization has applied to the IRS for a determination of tax-exempt status under 26 U.S.C. 501 (c)(3), (c)(4), or (c)(5), and that the IRS has not yet issued a final administrative ruling or determination of such status

**CERTIFICATION:** I CERTIFY that the above information is true and correct.

9. SIGNATURE OF APPLICANT 	10. DATE SIGNED <b>9 DEC 85</b>
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**PART II - PERMIT (TO BE COMPLETED BY GSA ONLY)**

11. DESIGNATED BUILDING AND AREA, ACTUAL DATES AND HOURS, FOR WHICH ACTIVITY APPROVED

A. BUILDING AND AREA <b>Courtyard in front of Courthouse</b>	B. FROM <b>1/4/86</b>	C. TO <b>1/17/86</b>	D. HOURS <b>Continuous</b>
-----------------------------------------------------------------	--------------------------	-------------------------	-------------------------------

12. SIGNATURE OF GSA APPROVING OFFICIAL <b>PAUL HAMILTON, Field Office Manager</b>	13. DATE SIGNED <b>12/10/85</b>
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PUBLISHED MATERIALS RELATING TO ARTIST

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Dennis L. Komac, "'Emerging' Art", The Tribune, March 25, 1985.

"Avalos' sculptures are sociopolitical statements about the concerns of the Chicano community, from Anglo stereotypes of Mexico to a general insensitivity to the human lives at the base of border conflicts. His forms are those of Mexican folk art; his content is bicultural clash".

Photograph of "Dia de los Muertos, 1982"

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Christopher Knight, "Dueling exhibits celebrate 'emerging artists in San Diego'", Los Angeles Herald April 14, 1985.

"(Avalos') assemblages marry the folk-inspired, outsider politics of Mexican "Day of the Dead" objects to an insider's knowing awareness..."

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Robert McDonald, "Artists Emerging in San Diego", Artweek April 20, 1985.

"David Avalos uses the conventions and materials of popular Chicano art in a high-art context; his is an art of social commentary and moral protest."

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Robert L. Pincus, "Varying existing styles makes them mannered", The San Diego Union, March 7, 1985.

"What one hopes for... is the feeling that there is an individual vision which frames the use of historical and pop sources. Fortunately, a few artists have managed to do so... Avalos' "Hubcap Milagro" (Hubcap Miracle) manages that provocative mix of folk technique and sophisticated visual poetry that distinguishes successful assemblage work... There is a lot of irony here."

Photograph of "Hubcap Milagro #1"

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Mark-Elliott Lugo, "2 at vanguard of Chicano Art movement", The Tribune, January 25, 1985

"His work is unique because... he interprets Chicano culture with a contemporary flair and sophistication that is not only fresh, but aesthetically pleasing... Avalos' growth as an artist has been nothing short of spectacular within the past couple of years."

---

Shifra Goldman, "La Escena de San Diego, Texto y Contexto", La Opinion, February 17, 1985.

"One of the most promising San Diego artists to emerge recently is David Avalos who is developing into a sculptor of originality and sardonic wit, not to mention a sharp sense of social satire. Working with wood, metal, plaster, paint, and "found" materials, Avalos is exploring subject matter related to the social and cultural issues of the U.S.-Mexico border." (Translation)

Photograph of "Art Sanctifies Boredom"



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## The border as a barrier must change

SAN DIEGO

The border between the United States and Mexico is a bright orange line on a colored map of the hemisphere.

The border is a river, a convenient geographical reality put to use as a political symbol.

The border is a tall cyclone fence delineating two cultures, two races, two ways of seeing the world.

The border is a wall keeping "them" out and "us" in.

Every Mexican citizen, every citizen of the United States, has a psychic border, the Mexican novelist Carlos Fuentes has pointed out; a mental image that helps us define that geopolitical reality known as the border.

Usually, our images — of the border, of most anything else — are social or cultural in origin. They are received images, in other

By **JOE HOLLEY**

words. They may or may not be based on experience.

Images that define reality also can distort reality. They literally can mislead us. When that happens it's time to change our images, though that's rarely easy. We grow comfortable with them, and we build edifices of great complexity upon them.

Often it is the artist among us who dares shift the kaleidoscope, who creates new images for us, forcing us to see our world in a different light. Artists like Guillermo Gomez-Pena. The images of the border that the Mexican or the Mexican-American carries in his mind, the San Diego writer and actor points out, are different from the images that the American carries.

The border may be "a wound in the continent that will never heal," he suggests, or "an abyss into which one will fall" or "a membrane that protects a culture's identity."

"I see the artist as a topographer, as a mapmaker," Gomez-Pena says, a mapmak-

er, "who forces us to re-pattern our sense of reality."

Gomez-Pena is a member of the Border Art Workshop-Taller de Arte Fronterizo, a group of Chicano, Mexican and American artists dedicated to the creation of images in a variety of disciplines that more accurately reflect "border realities." An exhibit called "Border Realities II," on view at the Centro Cultural de la Raza through April 11, offers several provocative possibilities, including David Avalos' "San Diego Donkey Cart." That's the work that offended the sensibilities of official San Diego a few weeks ago.

The controversy over "San Diego Donkey Cart" brings to mind the comment by D.H. Lawrence that art, all art, is subversive. It undermines our comfortable notions of reality. What Avalos and his colleagues who put together "Border Realities" are insisting is that our notions about the border need undermining.

The border artists argue that they are based on images that are inadequate, inaccurate or outdated. They are simplistic, and they contribute to simplistic public policy.

That's one reason immigration reform has bogged down, Avalos maintains. Simpson-Mazzoli and Simpson-Rodino have failed to address complex border realities.

"You never get any innovative thinking, even if it's oddball," Avalos says. "Both from the media and from the politicians, all you ever get is a rehashing of old ideas."

Usually, Avalos argues, those ideas focus on the threat of illegal immigration and the need for stricter law enforcement. We have lost control of our border, we are told, and we are being overrun by alien hordes. They are taking our jobs, subverting our language, driving up the crime rate, overrunning increasingly scarce open land around our cities. (The latter warning comes from Colorado Gov. Richard Lamm and Gary Imhoff in their book "The Immigration Time Bomb.") That view of reality, to whatever extent it is true, lends itself to images of fences that need strengthening, walls that need shoring up, a fortress that must be manned. (Lamm writes that we have a "Swiss cheese border," which, I suppose, would require plugging.)

What we don't get in the dire warnings and the fortress images of the border, Gomez-Pena suggests, is a sense of the border as a place where "cultures meet, where they clash, collide and overlap." In Gomez-Pena's view, "Latin America and the United States have mutually interpenetrated each other — demographically, economically and culturally — and public policy doesn't reflect that interpenetration."

"It would be egotistical for us to assume that we could influence public policy," says

Michael Schnorr, an artist whose work is included in "Border Realities." "We re-define for ourselves, and then maybe that redefinition has some influence."

A few politicians and policy-makers seem to be aware that redefining is in order; among them is San Antonio Mayor Henry Cisneros.

Speaking to Washington reporters last week in his role as president of the National League of Cities, he acknowledged that immigration reform is necessary. He noted the thousands of undocumented workers apprehended every day, the thousands more who aren't.

We could stop it, he said, if we wanted to position law-enforcement people arm in arm along the entire 2,000-mile border. Or we could deal with reality, which in Cisneros' view, involves close cooperation with Mexico, particularly on economic matters.

"Mexico will send us either people or products," he said. "If we don't want the people, we ought to take the products."

New images suggest themselves:

The border is that line of tension where vast tectonic plates meet and in the meeting re-shape each other.

The border is that line in a drawing where water colors bleed into each other, creating an entirely new shade.

The border is that meeting ground where two people, two cultures, blend and merge and engage each other, and in the process create a new people, a new culture.

"All of us," Gomez-Pena says, "should be looking for new models to help us deal with the future." □



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INTERNATIONAL CHICANO JOURNAL OF ARTS AND LETTERS

February/March 1986 \$2.50; France, 20FF



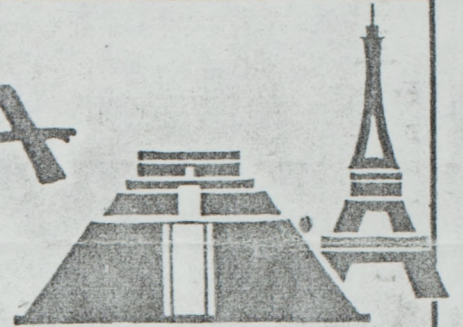
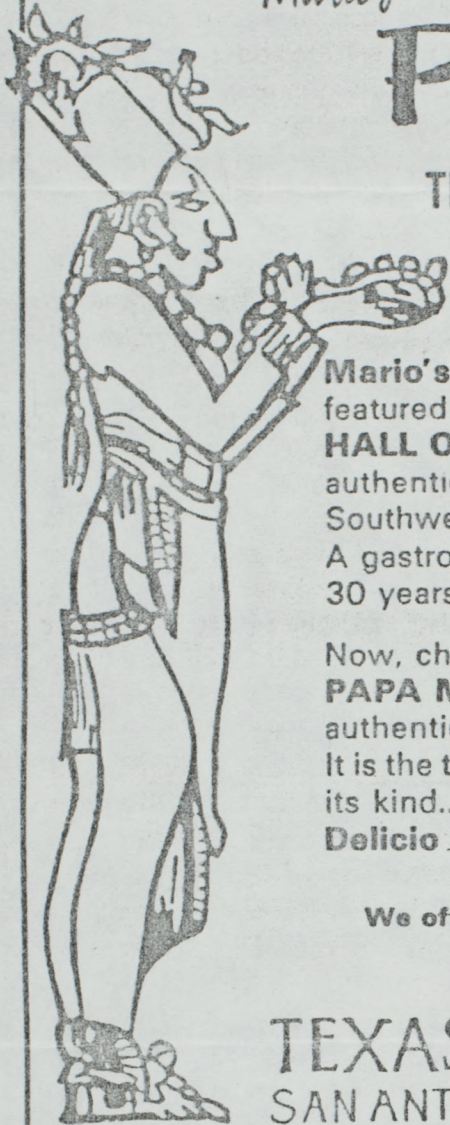


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### Old Woman

Old woman sitting on the bench  
Face translucent, full of veins and wrinkles  
Filled with life  
Lips red and cracked  
Eyes misty and gray  
Staring idly  
Staring into the past.

Grace Uranga  
San Antonio, Texas

### The Flowering Of Me

Years have gone by  
With my thoughts deep inside me,  
Words and more words calling me -  
One more phase is completed  
They've all received their degree.  
Now the time has come, at last,  
For the flowering of me!

Yolanda Porras Lopez

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# Tex-Mex Fare Taking Paris By Storm

**P**ARIS — The honor just paid to an American restaurant in Paris reflects the growing popularity in France of American food and the proliferation of American-style restaurants here. Throughout Paris, young French people are lining up for "les hamburger," "les chiens chauds" (hot dogs) and a wide variety of other American dishes.

This fascination with American cuisine was reflected in a rare tribute earlier this week. The International Action Committee for Gastronomy and Tourism awarded its annual prize — the Plat Vermeil or Gold-Plated Dish — for the best foreign food in Paris to Papa Maya, a new Texas-Mexican restaurant owned by native San Antonians near Les Halles, the former central marketplace of the city.

On Wednesday night, the committee, friends of the committee and of the restaurant, the cultural attaches of the United States and Mexican Embassies in Paris and a crowd of Mexican-food buffs gathered at the new Novotel Hotel to celebrate the Papa Maya's culinary honor. In addition to the Plat Vermeil, the restaurant also received a Golden Fork award for excellent cuisine.

The Plat Vermeil has usually been

given to an Asian restaurant — the French put Asian cuisine on a par with their own — and the Papa Maya is the first American restaurant to receive the award.

The high point of the celebration was the entrance into the banquet room of a French mariachi on horseback, brandishing a Mexican flag and singing Mexican folk songs.

But before that came to pass, there was an extraordinary and particularly Gallic crossing of diplomatic and social swords.

For example, the invitation to the cocktail-buffet promised appearances by Gov. Mark White of Texas, United States Rep. Henry B. Gonzalez, D-Texas, and Mayor Henry Cisneros of San Antonio. But none of them attended the party.

That, explained Mario Cantu, the chef and a co-owner of the Papa Maya on Rue Rambuteau, was because "the celebration was organized too late for them to make it."

Meanwhile, there was serious negotiating about which ambassador to France would participate in the ceremony. The committee for gastronomy wanted to invite only Mexico's ambassador to the celebration. But Cantu and his partner, Teresa Gonzales, both American

citizens born in San Antonio, argued that their food was not Mexican, but "Texas-Mexican," a particularly American invention. So they insisted that an invitation be sent to the United States ambassador in Paris.

The committee demurred, citing protocol, Cantu recounted. "They said we couldn't have two embassies represented at the awards ceremony," he said. Cantu and his wife told the committee they would not be able to accept the award unless the Americans were invited.

"I'm an American," Cantu said. "If I'm in trouble, I don't go to the Mexican Embassy."

The contretemps was resolved when the cultural attaches of both the United States and Mexican Embassies were invited to attend.

This year, as in previous years, the name of the Golden Fork award was changed to reflect the utensils used as the restaurant honored. For example, Oriental restaurants have received the Baguettes d'Or, or Golden Chopsticks, award. Wednesday night, the prize was dubbed the "Golden Tortilla" at the Papa Maya's suggestion.

"We use tortillas, not forks, to eat our food," Gonzales explained.

It was probably only a matter of time before the Mexican and Tex-Mex craze that has gripped New York spread across the Atlantic. About a half-dozen Mexican or Tex-Mex restaurants have opened in Paris, most of them within the past three years.

Before he came to Paris, Cantu was a fixture in San Antonio, where he ran a restaurant started by his father 30 years ago. But a marketing study convinced him that Paris was an ideal location for an overseas branch, and he was right.



Sentinels for a  
Modern Age





*Avalos*

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# Artwork removed at judge's order

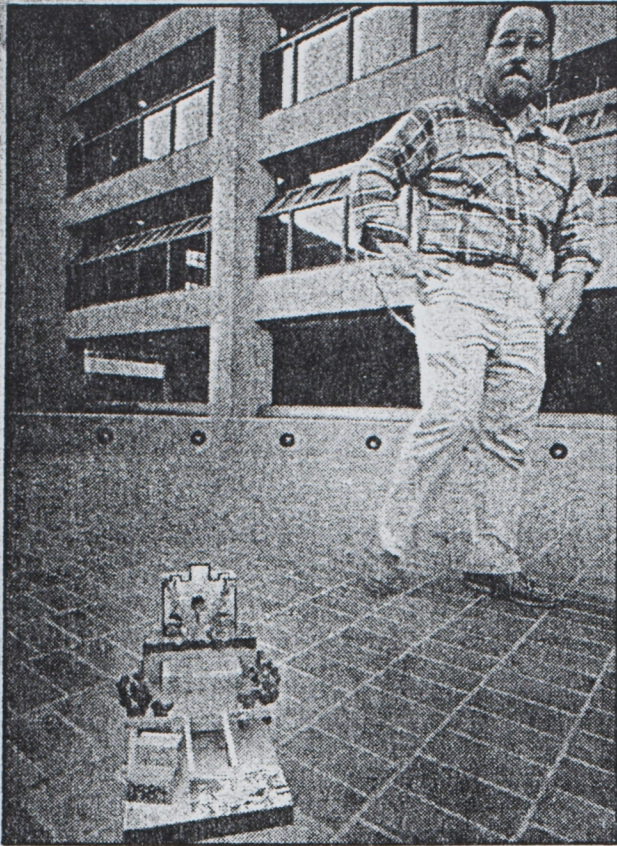
By Ed Jahn, Staff Writer

"San Diego Donkey Cart," an assemblage by National City artist David Avalos, is supposed to "encourage direct social dialogue," according to the flier announcing its installation this week in front of the Federal Courthouse downtown.

The artwork, showing an undocumented alien being frisked by an immigration official atop a Tijuana tourist cart, lasted only a day before Chief U.S. District Judge Gordon Thompson made his own art statement.

Yesterday, Thompson overruled an earlier approval for the installation and ordered the work disassembled and removed. Thompson said the structure, along with the barbed-wire-topped fence surrounding it, presented "a security threat" to the courthouse.

Avalos, who is the artist-in-residence at the Centro Cultural de la Raza in Balboa Park, had intended to spend his lunch hour with the assemblage talking to bystanders during the work's planned two-week stay at the courthouse. Now he says he will be doing his talking in court and with



The San Diego Union/Jerry McClard

Artist David Avalos with a miniature of his disputed artwork.

See ART on Page B-4



# Art project removed by judge order

National City artist David Avalos this week found himself at odds with a federal court judge over what constitutes art and what might represent a security threat to the federal courthouse in downtown San Diego.

A form of sculpture art assembled by Avalos, entitled "San Diego Donkey Cart," was scheduled to go on display this week in front of the courthouse. It was, according to Avalos, supposed to "encourage direct social dialogue".

The eye-catching life-size work shows an undocumented alien being frisked by an immigration officer atop a Tijuana tourist cart. Avalos received permission on Dec. 10, from the General Services Administration (GSA) to display the piece for two weeks.

The work was subsidized through a \$2,700 grant from the National Endowment for the Arts. Lynn Schuette, director of the non-profit Sushi Gallery, said the gallery is currently sponsoring a "Streetworks" show involving Avalos and three other artists.

However, one day after it was installed Monday, Chief U.S. District Court Judge Gordon Thompson ordered it removed because he said the structure, along with the barbed-wire-topped enclosure, presented a "security threat" to the courthouse.

The artist-in-residence at the Centro Cultural de la Raza in Balboa Park, Avalos said Tuesday he had planned to spend his lunch hours with the artwork, talking with passersby. Now he will do all his talking in court and with the media, he said.

Avalos said Thompson may have been offended by the piece because the federal court system handles so many undocumented alien cases. Thompson disagreed.

The decision to order removal of the assemblage was made by all 10 federal judges and a Circuit Court judge during an administrative meeting Monday, Thompson said.

"We didn't know who might decide to try and get inside that chicken wire and box arrangement, perhaps in the middle of the night, and plant a bomb," Thompson said. "We've got some kooks out there."

Thompson said that several months ago a woman drove her pickup truck into the front of the federal office building because she said her Social Security supplementary income check was overdue.

In response to whether the piece makes a political statement, Thompson said that was not discussed at the meeting and did not enter into his decision to order it removed. No com-

See art, page A-6

# Art: work called hazard taken down

Continued from page A-1

promise was possible, he said, because all potential security risks call for a summary judgment.

Avalos is not giving up without a fight, however. The local chapter of the American Civil Liberties Union said it is preparing a federal lawsuit to have the work returned for display.

Several members of the Public Arts Advisory Board said Thompson's actions were insulting to the community as a whole, and leaders of the Chicano community responded by claiming Thompson's ruling

was "clear and simple political repression."

"I refuse to submit to a violation of my freedom of expression," Avalos said. "The idea that that work represents a security threat is just baloney."

STARKES  
11/9/86



# Art: Work is ordered removed

Continued from B-1

the media.

Avalos said he believes Thompson may have taken offense because the federal court system handles many undocumented-alien cases.

The American Civil Liberties Union chapter here said it is preparing a federal lawsuit to have the work returned. Members of the city's Public Arts Advisory Board said the judge's actions were "an insult to the community" and leaders in the Chicano community called his act "clear and simple political repression."

"I refuse to submit to a violation of my freedom of expression," said Avalos yesterday while he passed out copies of the General Services Administration (GSA) approval on Dec. 10 for setting up the piece and Thompson's memo to take it down.

"The idea that that work represents a security threat is complete baloney. Does he think someone is going to put a heat-seeking missile or thermonuclear device inside it?" Avalos said.

"I played by the book and got the permit," he added. "Now a federal judge is acting as art censor and trying to put on a cover-up."

Thompson said it was a decision made by all 10 federal judges at the courthouse along with a Circuit Court judge who attended a weekly administrative meeting on Monday.

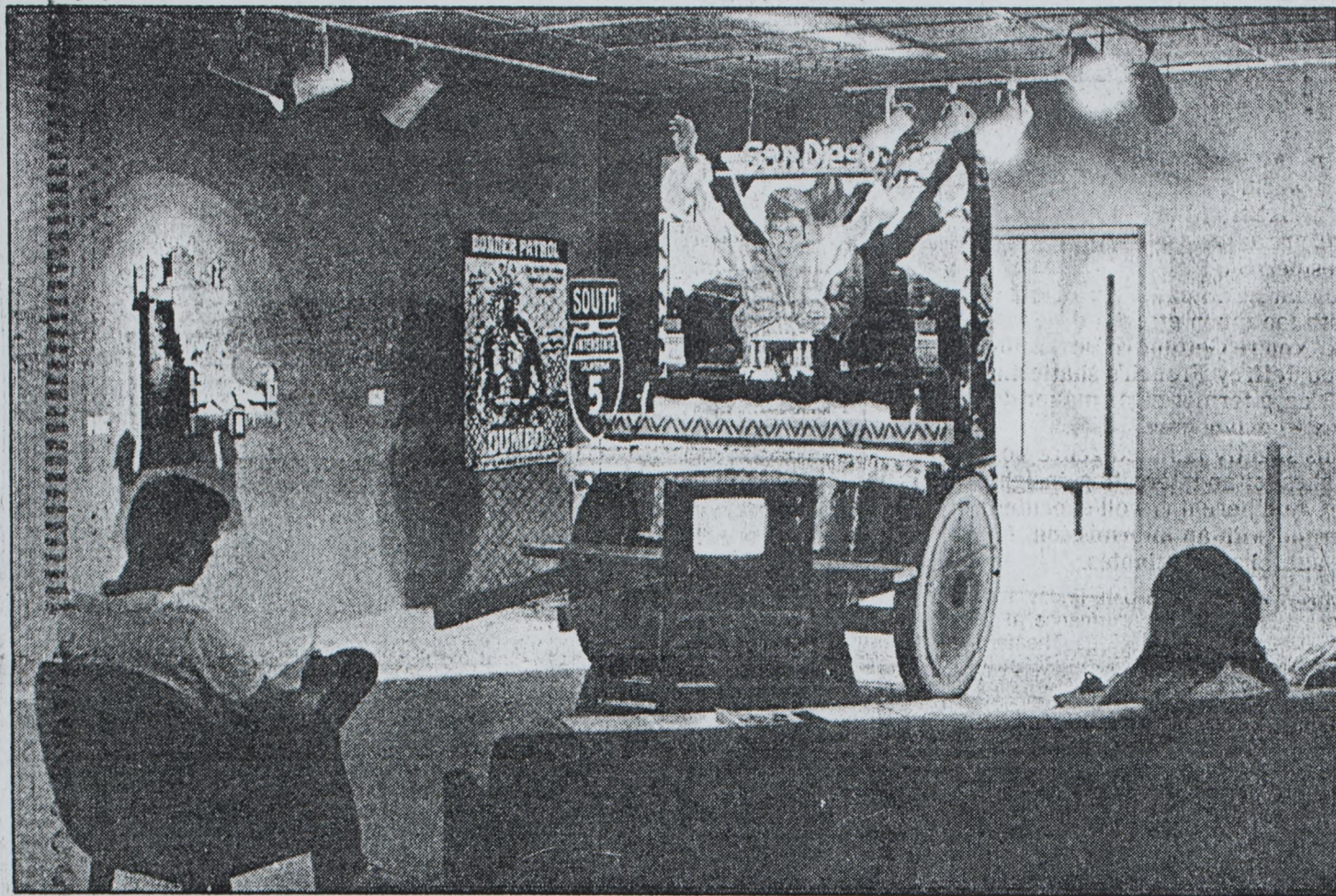
"We didn't know if some kook would get into this chicken wire and box arrangement in the middle of the night and plant some bomb. We've got those kooks out there," Thompson said.

As an example, Thompson said, a woman ran a pickup truck into the front of the federal office building several months ago because she said her Social Security supplementary income check was overdue.

As for whatever political statement the work might be making, Thompson said, "That was not discussed at the meeting. I did not interpret (the work) as being political." Thompson added that it was impossible to work out a compromise "because security risks call for a summary judgment."

The Avalos assemblage was subsidized through a \$2,700 grant from the National Endowment for the Arts, according to Lynn Schuette, director of the non-profit Sushi Gallery that is sponsoring a "Streetworks" show involving Avalos and three other artists.





Bee/Dick Schmidt

A judge called David Avalos' "San Diego Donkey Cart" a security threat and ordered it removed.

## Riding on the 'Donkey Cart' is issue of artistic freedom

By Victoria Dalkey  
Bee Art Correspondent

ON JAN. 5, artist David Avalos installed a painted wood construction, "San Diego Donkey Cart," in the plaza outside a federal courthouse in San Diego. Just two days later, it was removed by order of Chief U.S. District Court Judge Gordon Thompson Jr., who called it "a security threat."

Avalos — whose works concerning the abuses of the U.S. Border Patrol, including the "Donkey Cart," were shown at Galeria Posada in Sacramento last September and are currently on view at the Robert Else Gallery at California State University, Sacramento — believes that the sculpture, which depicts a border agent frisking an illegal alien, was censored because of its political content.

The American Civil Liberties Union agrees and has filed a suit on Avalos' behalf against the General Services Administration and Thompson for violating the artist's civil rights.

Avalos had received permission from the GSA to place the sculpture, whose construction had been subsidized by a grant from the National Endowment for the Arts, in front of the courthouse as part of a two-week "Streetworks" exhibit sponsored by a San Diego performance gallery. The judge ordered its removal because he feared a "kook" might plant a bomb in it, even though it was surrounded by a high, barbed wire-topped fence.

The dispute over the sculpture's removal was the subject of numerous newspaper accounts at the time:

"We didn't know if some kook would get into this chicken-wire-and-box arrangement in the middle of the night and plant some bomb," Thompson is reported to have said in explanation of his action. "We have those kind of kooks out there," he added, citing the instance of a woman who ran a pickup truck into the front of the federal office building last year because her Social Security supplementary income check was overdue.

"That's baloney," was Avalos' response. "If Sylvester Stallone showed up at the federal courthouse for a special screening of 'Rambo,' Judge Thompson would be there looking

for an autograph. . . . Does he really expect people to believe that someone's going to go through chain-link and barbed wire to plant a thermonuclear device? This is just censorship."

In a report in Open Forum, a publication of the ACLU of Southern California, San Diego chapter president Linda Hills assessed the importance of Avalos' case: "The case involves two very important constitutional issues . . . the normal concern for gov-

**'Does he really believe someone's going to go through barbed wire to plant a thermonuclear device? This is just censorship.'**

ernment suppression of expression . . . (and the) equally important question of a federal judge using his judicial powers outside the judicial process. A judge can only act as judge when there is a case before him, and there was no case concerning the 'Donkey Cart' before Judge Thompson at the time he ordered it removed."

Avalos was in Sacramento on May 2 to give a lecture about the "Donkey Cart" and other pieces included in his installation at CSUS. It was a fascinating and eloquent talk in which the artist explained why he has turned away from formal concerns to produce work that extends off the wall, out of the gallery and into the world by addressing political, economic and social issues.

To begin with, he noted, "art is communication and cannot be separated from its social context.

"Even a poet writing in a dark closet for an audience of one is performing a social act because the language he uses was socially acquired," Avalos said. Those who remove artwork, especially "primitive" works, from their social contexts, admiring them only for their aesthetic qualities, he thinks, rob the

works of their power to change us and make us grow by confronting the "otherness" of the people who made them.

Incorporating folk art, documentary techniques, and political statements into his own work, Avalos seeks to create a confrontational art that will encourage a dialogue between cultures — that of the alien immigrant, whom he likens to the black in the antebellum South, and the mainstream culture, which patronizes Mexican laborers while defining them as alien and shutting them off from participation in society's institutions.

The notion of dialogue is essential to Avalos' art. He notes that while he received a great deal of media attention for his suppressed sculpture, his desire to engage in dialogue with viewers in San Diego was circumvented not only by its removal but by the media coverage of the event.

"You can't talk back to a television set," he said, and added that when people passively consume television and newspaper reports, no real dialogue takes place and no meaningful change occurs. "And how are we going to move into the future with a democracy if we don't know how to interact?"

Avalos views his installation at the Else Gallery as a platform for dialogue and a tool for interaction. It examines, as did his earlier show at Galeria Posada, the transformation of the Mexican-U.S. border into what Avalos calls "a war zone." A central part of the exhibit is a documentation of the shooting of Humberto Carrillo, a 12-year-old Mexican child, by a U.S. Border Patrol agent.

This time around, Avalos has added to the display a photo of a border patrol agent in a terrifying Darth Vader mask, with nighttime binoculars used to scan the border after dark and a pair of etched plexiglass panels which cast dramatic shadows of Humberto's image on the wall. Both add force to the exhibit and to Avalos' argument, which while blatantly polemic, nevertheless serves as a potent record of contemporary and close-to-home instances of man's inhumanity to man.

DAVID AVALOS' work will be on view at the Robert Else Gallery on the CSUS campus, 6000 J St., through May 22. Hours are 10 a.m. to 4 p.m. Monday through Friday. For information: 278-5704.



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SELF PROCLAIMED DICTATOR

- (1) <sup>BY WHAT</sup> AUTHORITY
- (2) SETTING HIMSELF AS CENSOR  
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- (3) WHO MADE HIM THE
- (4) WITHDRAW
- (5) DEMAND AN IMMED <sup>A RETRACTION</sup> APOLOGY, THAT THE PEECE
- (6) ANOTHER MANIF. OF RACISM
- (7) WHAT MAKES HIM FEEL THAT HE
- (8) ONE BLDG. IS HE THE WTD LORD

TOUGH LUNG IN A DEMOCRACY  
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MARSHALL LAW  
IMPOSING CENSORSHIP, WITH OUT  
DUE PROCESS

THOMPSON ABOUT  
THE U.S. CONST.



Herman Baca



1 AMERICAN CIVIL LIBERTIES UNION FOUNDATION  
2 GREGORY MARSHALL  
3 ACLU FOUNDATION OF SOUTHERN CALIFORNIA  
4 SAN DIEGO CHAPTER  
5 444 West C Street, Suite 230  
6 San Diego, California 92101-3533  
7 619/232-2121  
8 Attorney for Plaintiffs

9 UNITED STATES DISTRICT COURT  
10 SOUTHERN DISTRICT OF CALIFORNIA

10	DAVID AVALOS and SUSHI, INC.,	)	
11	Plaintiffs,	)	
12	v.	)	MEMORANDUM OF POINTS AND
13	GENERAL SERVICES ADMINISTRATION,	)	AUTHORITIES IN SUPPORT OF
14	HON. GORDON THOMPSON Jr., and	)	TEMPORARY RESTRAINING
15	PAUL HAMILTON,	)	ORDER AND INJUNCTIVE
16	Defendants.	)	<u>RELIEF</u>

17 I. INTRODUCTION/FACTS

18 As described in more detail in the complaint and other mov-  
19 ing papers, this case involves the cancellation of a validly  
20 issued permit for the placement of an art work in the courtyard  
21 of the San Diego Federal Building. There is no real dispute  
22 about the facts, except possibly concerning the motivation for  
23 the cancellation (part V below).

24 Plaintiffs contend that (1) the decision and order cancel-  
25 ling the permit were made by a person with no legal authority  
26 for doing so, and conversely, that no person with

27  
28 . . .



1 authority to cancel the permit actually did so (part III,  
2 below); (2) that the stated basis for the cancellation does not  
3 constitute legal grounds for the same, under applicable statu-  
4 tory and regulatory enactments, and conversely, that no legal  
5 grounds for cancellation, under these enactments, ever arose;  
6 (part IV, below); (3) that the cancellation was done in viola-  
7 tion of plaintiffs' rights under the First Amendment to the  
8 Constitution (part V, below); and that the cancellation was done  
9 in violation of plaintiffs' rights to due process of law under  
10 the Fifth Amendment to the Constitution (part VI, below).

## 11 II. TEMPORARY INJUNCTIVE RELIEF

12 It is well established that temporary injunctive relief is  
13 to be granted wherever necessary to prevent immediate and  
14 irreparable injury. (7 - Pt. 2 Moore's Fed.Prac., para. 65.05,  
15 p. 65-73.)

16 Plaintiffs contend that there exists a continuing violation  
17 of their rights under federal statute law and three separate  
18 provisions of the Constitution; and as the underlying right  
19 they wish to exercise expires by its terms in a matter of days,  
20 they will necessarily suffer irreparable injury if this court  
21 fails to issue a restraining order.

## 22 III. EXCESS OF JURISDICTION/ABSENCE OF AUTHORITY

23 Plaintiffs secured and operated under a permit for the  
24 placement of the art work at issue. The permit was properly and  
25 validly issued by defendant GENERAL SERVICES ADMINISTRATION,  
26 pursuant to 40 U.S.C. sections 490(a)(17) and 601a(a)(2),(3),  
27 . . .



1 and (4) (see also id., section 612a, subds. (1), (6)). The  
2 procedure for issuance of permits, which was followed in this  
3 instance, is set forth at 41 C.F.R. section 101-20.702 (copy  
4 attached as Exhibit 1).

5 The factual portions of these moving papers clearly  
6 demonstrate that the permit was cancelled by the order of and  
7 under the authority of the Hon. Gordon Thompson, Jr., Chief  
8 Judge of this court. Yet this order was made in direct  
9 contravention of section 2 of Article III of the Constitution,  
10 which requires as a pre-condition to judicial action the  
11 existence of a "case" or "controversy." The "case or  
12 controversy" limitation has inspired debate, but at a very  
13 minimum it includes "questions presented in an adversarial  
14 context and in a form historically viewed as capable of  
15 resolution through the judicial process." (Flast v. Cohen  
16 (1968) 392 U.S. 83, 95.) (See generally Wright, et al., Fed.  
17 Prac. & Procedure, Jurisdiction 2d, section 3529.)

18 The issue of plaintiffs' permit did not come before Judge  
19 Thompson in any way remotely resembling what we know as an  
20 "adversarial context" or a "form" historically recognized as  
21 judicial. There was, in the most utterly basic sense, no case;  
22 and consequently, the judge's order was in excess of jurisdic-  
23 tion, and void.

24 Conversely, only one official (and his delegees) had the  
25 power to revoke or cancel the permit. That person was the  
26 Administrator of General Services (see 40 U.S.C. section 612a  
27 (1); id., section 601a); the only recognized delegees are GSA  
28



1 building managers (see 41 C.F.R. section 101-30.703, copy  
2 attached as Exhibit 2). No decision to cancel the permit was  
3 made by any such official, and therefore it was unlawful for  
4 defendants to demand that plaintiffs remove the work and to  
5 remove the work themselves.

6  
7 IV REGULATORY GROUNDS

8 Judge Thompson's order recites "security reasons" as the  
9 sole basis for cancellation. Defendant Hamilton's letter to  
10 plaintiff recites the same and refers generally to the regula-  
11 tions which set forth the lawful grounds for cancellation.  
12 (See Exhibit 2.) "Security reasons" is not one of the grounds  
13 available, nor do any of the authorized grounds suggest that a  
14 vague concern about "security" might serve as a basis for can-  
15 cellation.

16 By the same token, none of the authorized grounds existed in  
17 this case (a fact which helps to explain why the permit was  
18 issued in the first place).

19 Plaintiff Avalos is prepared to testify in this respect.  
20 This fact will emerge even more clearly at the full hearing in  
21 the matter, when defendants will fail to assert any facts that  
22 would bring the art work within the authorized grounds. (E.g.,  
23 41 C.F.R. section 101-20.703/<sup>(a)</sup>(2), (3), (4).)

24 If defendants are in truth concerned about the "security" of  
25 the building, their remedy is to lobby for inclusion of that  
26 kind of basis in the regulations, or to lobby for repeal or  
27 revision of the Public Buildings Cooperative Use Act (P.L. 94-

28 . . .



1 541), or to provide security. The remedy is not arbitrarily to  
2 create a new, unwritten basis for cancellation and to invoke a  
3 new and unannounced procedure for invoking it.

4 V FIRST AMENDMENT

5 It seems clear that the permit was cancelled because of the  
6 expressive content of the art work. The only question is  
7 whether the work was removed because its content offended  
8 government officials, or because government officials feared  
9 that its content would so incite passersby that they might  
10 attempt to destroy the work and damage the building.

11 In either event, it is well-established that suppression of  
12 expression cannot be based on such content-based thinking,  
13 consistently with the First Amendment. (E.g., Cohen v.  
14 California (1971) 403 US 15, 18-26; compare Clark v.  
15 Community for Creative Nonviolence (1984) \_\_\_ U.S. \_\_\_, 82  
16 L.Ed.2d 221, 227-228.)

17 Thus, the further question of whether the cancellation might  
18 also fail Constitutional scrutiny as a "time, place, manner"  
19 regulation (see Clark, supra) becomes academic. As there was  
20 undoubtedly a significant content-related reason, the  
21 cancellation violated plaintiffs' First Amendment rights.

22  
23 VI FIFTH AMENDMENT

24 Apart from the defects described in part III above, all of  
25 which fall generally within the ambit of the Due Process Clause  
26 of the Fifth Amendment, plaintiffs' rights to due process of  
27 law have been violated in other ways.

28 . . .



1 For one thing, to the extent that "security" is the basis  
2 for the cancellation, the term is unconstitutionally vague.  
3 Moreover, insofar as cancellation of a short-term permit is  
4 concerned, the regulations violate due process by allowing the  
5 appellate agency ten days' time to decide the appeal; no  
6 meaningful opportunity to be heard is provided. Furthermore,  
7 the notice of cancellation in this case (Exhibit 2 to the  
8 Affidavit of David Avalos) fails to notify the recipient of the  
9 basis, under the regulations, for cancellation. (Cf. 41 C.F.R.  
10 section 101-20.703, subd. (b)(1) [requiring notice of specific  
11 reasons].)

12 In all these respects, defendants' actions amount to an  
13 abridgement of plaintiffs' right to due process of law. (See  
14 generally, Tribe, American Constitutional Law (1977), section  
15 10-15.)

16 Respectfully submitted,

17  
18 DATE: January 9, 1986

Gregory Marshall  
19 GREGORY MARSHALL  
20 Attorney for Plaintiffs  
21  
22  
23  
24  
25  
26  
27  
28 . . .



§ 101-20.702 Permits.

(a) Application. Any person or organization desiring to use a public area of a public building or its grounds shall first obtain a permit from the buildings manager. To obtain this permit, a copy, sample, or description of any material or item proposed for distribution or display and a written statement shall be submitted setting forth the following:

- (1) The full name, mailing address, and telephone number of the applicant;
- (2) The full name, mailing address, and telephone number of the person or organization sponsoring, promoting, or conducting the proposed activity;
- (3) The full name, mailing address, and telephone number of the individual person or persons who will have supervision of and responsibility for the proposed activity;
- (4) A description of the proposed activity;
- (5) The proposed dates and hours during which the activity is to be carried out; and
- (6) The approximate number of persons to be engaged in this activity, if known.

(b) Applicants authority. If the applicant claims to represent an organization, a letter or other documentation is required showing that the applicant has authority to represent that organization.

(c) Applications for permit to solicit contributions. Any person or organization desiring to use a public area of a public building or its grounds for purposes of soliciting funds not prohibited by § 101-20.308 shall, in addition to the above requirements, submit a statement signed by the applicant that the:

- (1) Applicant represents and will be soliciting funds for the sole benefit of a religion or religious group;
- (2) Applicant's organization has received an official Internal Revenue Service (IRS) ruling or letter of determination stating that the organization or its parent organization qualifies for tax-exempt status under 28 U.S.C. 501 (c)(3), (c)(4), or (c)(5); or

(3) Applicant's organization has applied to the IRS for a determination of tax-exempt status under 28 U.S.C. 501 (c)(3), (c)(4), or (c)(5), and that the IRS has not yet issued a final administrative ruling or determination of this status.

(d) Failure to complete application. Failure to submit the information required by paragraphs (a), (b), and (c), of this section shall result in denial of a permit.

(e) Filing. Applications shall be filed during regular working hours in the buildings manager's office or such other place as he or she may designate. Applications may be submitted by mail or in person.

(f) Permit issuance. A single permit shall be issued within 10 days following receipt of the completed application by the buildings manager.

(1) Each permit shall authorize the permittee to conduct the activity for the period of time requested; provided that a permit shall not be issued for a period of time in excess of 30 calendar days, unless specifically approved by the regional officer. After the expiration of the permit, a new permit may be issued

to the former permit holder upon submission of a new application. In such a case, applicants may be permitted to incorporate by reference any required information or documentation filed with a previous application.

(2) If permits are requested for the same public area for the same time period, the buildings manager will issue permits on a first-come-first-served basis.

Exhibit 1



**§ 101-20.703 Disapproval of application or cancellation of permit.**

(a) Grounds for disapproval or cancellation. The buildings manager shall disapprove any application or cancel an issued permit for use of a public area if the proposed use:

- (1) Is a commercial activity as defined in § 101-20.701(k);
  - (2) Obstructs the free ingress and egress of the users of the public area;
  - (3) Damages the public building or any property within the public building;
  - (4) Disrupts the official business of the agency or agencies occupying the public buildings;
  - (5) Interferes with a tenant's quiet enjoyment of their leasehold;
  - (6) Interferes with a previously approved use of the public area by another member, or members, of the public;
  - (7) Is obscene within the meaning of obscenity in 18 U.S.C. 1461-85;
  - (8) Pertains to any judicial proceeding then pending in the public building and this use is intended to influence or impede the judicial proceeding;
  - (9) Is in violation of the prohibition against political solicitations in 18 U.S.C. 803; or
  - (10) Is being conducted with a permit issued in response to an intentionally false or incomplete application.
- (b) Notice of disapproval of application or cancellation of permit. Upon disapproving an application or canceling an issued permit for any of the above reasons, the buildings manager shall:
- (1) Notify promptly the applicant or permittee in writing of disapproval or

cancellation and the reasons for this action; and

- (2) Inform the applicant of his or her right to appeal the disapproval or cancellation to the regional officer under § 101-20.704.

Exhibit 2



**¡Abajo con la Migra!**



**UNA RESPUESTA  
CHICANA/MEXICANA  
CONTRA EL PLAN  
SIMPSON**

---

**ACUMULADO POR:**



Committee on Chicano Rights, Inc.  
1837 Highland Avenue  
National City, CA 92050  
(714) 474-8185





Committee on Chicano Rights, Inc.

PARA PUBLICACIÓN INMEDIATA

OCTUBRE 9, 1985

NATIONAL CITY, CA

DURANTE UNA CONFERENCIA DE PRENSA EL COMITÉ PRO DERECHOS CHICANOS (CCR) Y LA HERMANDAD MEXICANA HOY DENUNCIÓ EL VOTO DE APROBACIÓN POR EL SENADO ESTADUNIDENCE A LA PROPUESTA DEL SENADOR PETE WILSON (R-CALIF) PARA LA IMPORTACIÓN DE MÁS DE 350,000 TRABAJADORES MEXICANOS COMO UN RETROCESO A LA ESCLAVITUD Y UN VERCONZOSO RETORNO AL INFAME "PROGRAMA BRACERO" DE LOS AÑOS 1940, 50 y 60's.

HERMAN BACA, PRESIDENTE DE LA CCR, ACUSÓ AL SENADOR PETE WILSON DE HABERSE CONVERTIDO EN "EL REY DE LOS COYOTES" (CONTRABANDISTA) DE ESTE PAÍS Y DE FUNDAR CON SU PODER LEGISLATIVO, LOS REQUISITOS PARA ESTABLECER UN ESTADO POLICIACO TIPO SUD AFRICA PARA TODA PERSONA DE ASCENDENCIA MEXICANA EN LOS ESTADOS UNIDOS.

EL VOTO POR EL SENADO, DECLARÓ BACA ES MAS QUE UNA MASIVA CONTRADICION A LAS PRESUNCIONES DE LOS PROPONENTES DEL PENDIENTE PROYECTO DE INMIGRACION SIMPSON/RODINO QUE LA LEY CASTIGARÁ A LOS EMPRESARIOS QUE CONTRATEN TRABAJADORES INDCUMENTADOS Y QUE UN INCREMENTO A LA SIN/PATRULLA FRONTERIZA CONTENDRÁ EL FLUJO DE PERSONAS INDOCUMENTADAS QUE SE SUPONE "ESTAN ROBANDO EMPLEO A TRABAJADORES AMERICANOS." EL VOTO, ADEMAS DE SER UNA MASIVA CONTRADICION, ES UNA TOTAL CAPITULACION POR EL SENADOR



ESTADUNDENSE A LA AVARICIA DE LOS EXPLOTADORES DEL LABOR MEXICANO EN LOS ESTADOS UNIDOS.....LA OPULENTA (AGRI-BUSINESS) INDUSTRIA AGRICOLA." SEGUN BACA, EL VOTO DEL SENADO "DEBERA ACLARAR AL PUEBLO ESTADUNIDENCE/MEXICANO QUE LA LEGISLACION DE INMIGRACION SIMPSON/WILSON NO TIENE NADA QUE VER CON REFORMA MIGRATORIA, PERO REALIDAD ES UN TACTICA POLITICA PARA ASEGURAR QUE LOS EMPRESARIOS DEL "AGRI-BUSINESS" SEAN PROVISTOS CON UNA FUENTE DE MANO DE OBRA BARATA, CON O SIN EL ACUERDO DE MEXICO. MIENTRAS QUE LA LEGISLACION PROGRESA A LA CAMARA DE REPRESENTATES SE PLANTEA UNA CUESTION.....ESTARAN LOS POLITICOS DISCUTIENDO LEGISLACION DE INMIGRACION O ASUNTOS LABORALES.

BACA PLANTEO SERIAS CUESTIONES SI EL PROYECTO SIMPSON/WILSON ES APROBADO Y ANADIO QUE LA CCR PLANTARA LAS SIGUIENTES PREGUNTAS A LA CAMARA DE REPRESENTANTES Y EL PUEBLO ESTADUNIDENCE/MEXICANO.

- 1.) COMO REACCIONARA MEXICO A LA ACCION UNILATERAL DEL CONGRESO ESTADUNIDENCE QUE PROPONE ATRAER 350,000 DE SUS CIUDANOS A FUNCIONAR COMO ESCLAVOS EN LOS CAMPOS DE AGRICOLA EN LOS ESTADOS UNIDOS. SIN DERECHOS O LA PROTECCION DE SU PAIS??
- 2.) COMO SERAN LOS TRABAJADORES CONTRATADOS TRANSPORTADOS O ATENDIDOS DESDE EL INTERIOR DE MEXICO A LOS ESTADOS UNIDOS?
- 3.) QUIEN VELARA POR LA SEGURIDAD BIENESTAR, ALBERQUE Y QUIEN GARANTIZARA ESOS DERECHOS?
- 4.) COMO CONTENDRAN A LOS TRABAJADORES EN LOS CAMPOS ASIGNADOS? TENDRA LA SIN/PATRULLA FRONTERIZA QUE CREAR UN ESTADO POLICIACO REQUIRIENDO PASES PARA MOVERSE DE UN AREA A OTRA?
- 5.) QUIEN PROTEJERA LOS DERECHOS DE CADA TRABAJADOR, CONTRA ABUSOS Y EXPLICACION? LA SIN O EL SENADOR PETE WILSON?
- 6.) COMO SERA PROTEJIDO EL 20% QUE SERA DESCONTADO DE LOS SALARIOS DE CADA TRABAJADOR PARA ASEGUAR SU RETORNO A MEXICO. COMO Y QUIEN SERA LA DEPOSITARIA? MEXICO NO ES PARTE DEL PROYECTO.
- 7.) COMO SERAN IDENTIFICADOS LOS TRABAJADORES "TEMPORALES" HUESPEDES? COMO SE DISTINGUIRAN DE LOS OTROS 20 MILLONES DE CIUDADANOS? TENDREMOS QUE SER TATUADOS PARA INDENTIFICAR LOS QUE ESTAN LEGALMENTE EN LOS ESTADO UNIDOS?



PARA CONCLUIR EL COMITÉ PRO DERECHOS CHICANOS ASEGURÓ QUE HARÁ UNA CAMPAÑA PARA INFORMAR TODO VOTANTE DE ASCENDENCIA MEXICANA EN EL ESTADO LOS ESTADOS UNIDOS Y MEXICO DEL TREMEMDO IMPACTO QUE CAUSARÁ EL PROYECTO SIMPSON/WILSON Y DEL ESFUERZO PERSONAL DE SENADOR WILSON PARA SACRIFICAR SUS DERECHOS EN EL ALTAR DE LA AVARICIA.

NUESTRO ESFUERZO EN LA COMUNIDAD CHICANO/LATINA SERÁ INTENSIFICADA PARA DERROTAR EL PROYECTO SIMPSON/WILSON/RODINO QUE ESTÁ PENDIENTE EN LA CÁMARA DE REPRESENTATES Y TAMBIEN HAREMOS CAMPANA EN MEXICO PARA INFORMAR A NUESTRO HERMANDAD MEXICANA DEL PROGRAMA DE ESCLAVITUD QUE HA SIDO PROPUESTO PARA ELLOS EN LOS ESTADOS UNIDOS.

PARA MAS INFORMACION, LLAME A (619) 474-8195



# Carta de Derechos Para Los Trabajadores Indocumentados

**Artículo I:** Derecho a la residencia legal, demostrando simplemente su calidad de trabajador y contribuyente, para lo que se les otorgará su visa de residente permanente.

**Artículo II:** Derecho a un procedimiento justo y legal que garantice la inviolabilidad de su domicilio, la privacidad de su persona y otros derechos civiles para el trabajador y su familia, suspendiéndose totalmente las redadas fabriles, domiciliarias y en lugares públicos, así como todo tipo de deportaciones y prácticas anti-constitucionales.

**Artículo III:** Derecho a la reunificación de las familias para todo trabajador con o sin documentos que así lo desee. Se podrá trasladar al conyuge, hijos y padres sin más trámites que demostrar su calidad de trabajador y contribuyente en la sociedad norteamericana.

**Artículo IV:** Derecho automático a legalizar su residencia sin tener que regresar a su lugar de origen, como lo exige actualmente la ley de Inmigración de Estados Unidos.

**Artículo V:** Derecho de gozar plenamente de derechos sindicales, sociales y económicos que disfrutan el resto de los trabajadores ciudadanos.

**Artículo VI:** Derecho a la vivienda en condiciones de higiene y seguridad adecuadas para todo trabajador cíclico o por obra determinada.

**Artículo VII:** Derecho a los servicios de salud y atención médica gratuita y adecuada, guarderías y demás beneficios en las mismas condiciones que los recibe cualquier ciudadano norteamericano.

**Artículo VIII:** Derecho a recibir educación pública adecuada en el idioma materno, utilizando el inglés como segunda lengua y acceso sin restricciones a la cultura de su país de origen.

**Artículo IX:** Derecho a disfrutar de los seguros de incapacidad (parcial o permanente), por accidente de trabajo, enfermedades profesionales, vejez o muerte. En caso de fallecimiento, los gastos de traslado a su lugar de origen correrán a cargo del patrón, y los beneficios de los seguros correspondientes serán entregados a los familiares no importando su lugar de residencia.

**Artículo X:** Derecho a la organización sindical, ya sea ingresando a sindicatos ya existentes o formando nuevos, para la defensa de sus derechos laborales y el mejoramiento de sus salarios y sus condiciones de vida y de trabajo.

(A) Derecho de Negociaciones Colectivas para los trabajadores agrícolas y trabajadores públicos para garantizar su derecho a la organización sindical.

**Artículo XI:** Derecho al uso de la lengua materna en los tribunales cualquiera que sea el carácter de estos, para adquirir la ciudadanía, en procesos judiciales y en todo arreglo contractual público o privado.

**Artículo XII:** Derecho a que se le otorguen plenas facilidades para el ejercicio del voto en elecciones federales de su país de origen. Este derecho se ejercerá a través de consulados y todo lugar (sindicatos, escuelas, demás) designados por autoridades competentes.

**Artículo XIII:** Derecho desde el momento de legalizar su residencia y sin necesidad de adquirir la ciudadanía norteamericana de ejercer el voto en las elecciones locales y estatales en Estados Unidos. Este derecho nace de su condición de contribuyente, de trabajador y de residente.

Comisión Internacional Coordinadora  
1ra Conferencia Internacional Por Los Derechos Plenos de los Trabajadores Indocumentados



P.O. Box 819  
El Mirage, Arizona 85335  
(602) 977-1219

3123 West Eighth Street  
Los Angeles, California 90005  
(213) 383-7057

1642 s. Blue Island  
Chicago, Illinois 60608  
(312) 226-0173

P.O. Box 876  
San Juan, Texas 78589  
(512) 787-5984





Committee on Chicano Rights, Inc.

SAN DIEGO, CALIFORNIA

JANUARY 8, 1986

FOR IMMEDIATE PRESS RELEASE

HERMAN BACA, CHAIRPERSON OF THE COMMITTEE ON CHICANO RIGHTS (CCR) TODAY AT A PRESS CONFERENCE DENOUNCED FEDERAL COURT JUDGE GORDON THOMPSON AND 10 OTHER FEDERAL COURT JUDGES' ORDER, TO REMOVE A LIFE SIZE ART WORK BY DAVID AVALOS AS A "SIMPLE AND CLEAR CUT ACT OF POLITICAL REPRESSION" BACA ACCUSED JUDGE THOMPSON OF ATTEMPTING TO SILENCE IN VIOLATION OF 1ST AMENDMENT GUARANTEES, "A VOICE OF DISSENT IN DEFENSE OF THOSE WHO HAVE NO VOICE (I.E. THE MILLIONS OF UNDOCUMENTED WORKERS) IN U.S. SOCIETY AND THOSE WHO ARE MOST NEGATIVELY IMPACTED BY U.S. IMMIGRATION POLICY..... THE 20 MILLION CHICANO AND LATINO IN THE U.S." BACA STATED, " WITH ONE STROKE OF HIS PEN, JUDGE THOMPSON HAS REDUCED THE SAN DIEGO FEDERAL JUDICIARY TO THE LEVEL OF THOSE IN SOUTH AFRICA, CHILE, GUATAMALA AND OTHER DESPICABLE TOTALITARIAN STATES." WE ASK, BY WHAT LEGAL AUTHORITY AND POWER HAS JUDGE THOMPSON AND HIS CRONIES IMPOSED CENSORSHIP WITHOUT DUE PROCESS ON WHAT PEOPLE IN SAN DIEGO CAN OR CANNOT VIEW OR EXPRESS? WE ASK, IS JUDGE THOMPSON SUSPENDING CONSTITUTIONAL GUARANTEES AND IMPOSING "MARTIAL LAW" ON A PERSON WHO DISAGREES WITH HIS POLITICAL VIEWS? WHO WILL JUDGE THOMPSON ISSUE AN ORDER THAT THEY BE REMOVED FOR EXERCISING FIRST AMENDMENT RIGHTS, BECAUSE OF "SECURITY REASONS"...

AGAY IT SD  
THESE

1837 Highland Avenue, National City, CA 92050 (619) 474-8195



THOSE WHO OPPOSE CENTRAL AMERICAN POLICIES? BORDER PATROL VIOLENCE?  
PRESIDENT REAGAN'S POLICIES? OR EVEN THE DECISION OF THOMPSON AND HIS  
CRONIES?

BACA IN CONCLUDING STATED, THAT THE ORDER BY JUDGE THOMPSON IS ANOTHER MAN-  
IFESTATION OF RACISM AGAINST THE CHICANO COMMUNITY IN SAN DIEGO AND  
DEMANDED THAT JUDGE THOMPSON IMMEDIATELY RETRACT HIS ILLEGAL AND UNCON-  
STITUTIONAL ORDER, APOLOGY TO MR. DAVID AVALOS, THE ART AND CHICANO  
COMMUNITY AND THAT THE DISPLAY BE RESTORED TO IT'S ORIGINAL POSITION AS  
WAS APPROVED BY THE U.S.GOVERNMENT.





Committee on Chicano Rights, Inc.

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Committee on Chicano Rights, Inc.

SAN DIEGO, CALIFORNIA

JANUARY 8, 1986

FOR IMMEDIATE PRESS RELEASE

HERMAN BACA, CHAIRPERSON OF THE COMMITTEE ON CHICANO RIGHTS (CCR) TODAY  
AT A PRESS CONFERENCE DENOUNCED <sup>THE</sup> FEDERAL COURT JUDGE GORDON THOMPSON  
AND 10 OTHER FEDERAL COURT JUDGES' <sup>ISSUED BY</sup> ORDER, TO REMOVE A LIFE SIZE ART WORK  
BY DAVID AVALOS AS A "SIMPLE AND CLEAR CUT ACT OF POLITICAL REPRESSION" <sup>AGAINST AVALOS</sup>  
BACA ACCUSED JUDGE THOMPSON OF ATTEMPTING TO SILENCE <sup>THE ART OF CHICAN</sup> (IN VIOLATION OF  
1ST AMENDMENT GUARANTEES,) "A VOICE OF DISSENT IN DEFENSE OF THOSE WHO  
HAVE NO VOICE (I.E. THE MILLIONS OF UNDOCUMENTED WORKERS) IN U.S. SOCIETY  
AND THOSE WHO ARE MOST NEGATIVELY IMPACTED BY U.S. IMMIGRATION POLICY.....  
THE 20 MILLION CHICANO AND LATINO IN THE U.S." BACA STATED, " WITH ONE  
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JUDICIARY TO THE LEVEL OF THOSE IN SOUTH AFRICA, CHILE, GUATAMALA AND  
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AND POWER HAS JUDGE THOMPSON AND HIS CRONIES IMPOSED CENSORSHIP WITHOUT  
DUE PROCESS ON WHAT PEOPLE IN SAN DIEGO CAN OR CANNOT VIEW OR EXPRESS?  
WE ASK, IS JUDGE THOMPSON SUSPENDING CONSTITUTIONAL GUARANTEES AND  
IMPOSING "MARTIAL LAW" ON A PERSON WHO DISAGREES WITH HIS POLITICAL VIEWS?  
WHO WILL JUDGE THOMPSON ISSUE AN ORDER <sup>ON NEXT</sup> THAT THEY BE REMOVED FOR EXERCISING  
FIRST AMENDMENT RIGHTS, BECAUSE OF "SECURITY REASONS"...

1837 Highland Avenue, National City, CA 92050 (619) 474-8195





Committee on Chicano Rights, Inc.

TIJUANA, B.C.

JANUARY 10, 1986

PARA PUBLICATION INMEDIATA

HOY EN UNA CONFERENCIA DE PRENSA EL DIRIGENTE DEL COMITE PRO-DERECHOS CHICANOS, HERMAN BACA, DENUNCIO AL JUEZ GORDON THOMPSON POR LA ORDEN DE REMOVER UNA OBRA DE ATRE DEL ARTISTA DAVID AVALOS EN EXHIBICION EN LA ENTRADA DEL LA CORTE FEDERAL EN SAN DIEGO, CALIFORNIA. "ESTE ACTO ES MAS DE UNA SIMPLE Y CLARA MANIFESTACION DE REPRESION POLITA." DIJO BACA. ACUSANDO AL JUEZ THOMPSON DE INTENTAR DE SILENCIAR EN VIOLACION DE GARANTIAS DE LA PRIMERA ENMIENDA "LA VOZ DECIDENTE EN DEFENSA DE AQUELLOS QUE NO TIENEN VOZ ( LOS MILLIONES DE TRABAJADORES INDOCUMENTOS EN LA SOCIEDAD NORTE AMERICAANA Y AQUELLOS QUE SUFREN EL IMPACTO DE LA NORMA RASISTA DE INMIGRACION.... LOS 20 MILLIONES DE CHICANOS Y LATINOS DE ESTE PAIZ"

BACA ANADIO QUE "CON SU ORDEN EL JUEZ THOMPSON HA REDUCIO EL NIVEL JURIDICO FEDERAL AL NIVEL DE SUD AFRICA, CHILE, GUATEMALA Y OTROS ESTADOS TOTALITARIOS". EL JUEZ THOMPSON Y SUS CAMARADAS DE IMPONER CENSURA SIN PROCESO DEBIDO CONFORME A LA LEY, A LO QUE PERSONAS EN SAN DIEGO PUEDAN VER O EXPRESA? PREGUNTAMOS, ESTA EL JUEZ THOMPSON SUSPENDIENDO LA GARANTIAS CONSTITUCIONALES Y IMPONIENDO "LEY MARCIAL" SOBRE UN INDIVIDUO QUE NO ESTA DE ACUEDRO CON SUS OPINONES POLITICAS? CONTRA QUIEN EJERCITARA ORDEN JURIDICA POR RAZONES DE SEQRIDAD, PERSONAS QUE EJERCEN LOS DE- RECHOS BAJO LA PRIMERA EMIENDA .... AQUELLOS QUE SE Oponen EN LA NORMA ESTADO- UNIDENSE EN AMERICA CENTRAL?, VIOLENCIA DE AGENTES DE LA PATRULLA FRONTERIZA?, LAS POLISAS ECONOMICA DE EL PRESIDENTE REAGAN?, Y HASTA LA ORDEN DE LOS JUEZES FEDERALES? BACA CONCLUYO, "LA ORDEN DEL JUEZ THOMPSON ES OTRA MANIFESTACION DEL RACISMO CONTRA LA COMUNIDAD CHICANA EN LOS ESTADOS" Y DEMANDO QUE EL JUEZ



THOMPSON RETRACTARA SU ORDEN ILEGAL Y ANTICONSTITUCIONAL, Y HACER UNA DEBIDA DISCULPA A LA COMUNIDAD CHICANA, Y QUE LA OBRA DE ARTE SE RESTUARE A SU ORIGINAL LUGAR FRENTE LA CORTE FEDERAL.





Committee on Chicano Rights, Inc.

TIJUANA, B.C.

JANUARY 10, 1986

PARA PUBLICATION INMEDIATA

HOY EN UNA CONFERENCIA DE PRENSA EL DIRIGENTE DEL COMITE PRO-DERECHOS CHICANOS, HERMAN BACA, DENUNCIO AL JUEZ GORDON THOMPSON POR LA ORDEN DE REMOVER UNA OBRA DE ATRE DEL ARTISTA DAVID AVALOS EN EXHIBICION EN LA ENTRADA DEL LA CORTE FEDERAL EN SAN DIEGO, CALIFORNIA. " ESTE ACTO ES MAS DE UNA SIMPLE Y CLARA MANIFESTACION DE REPRESION POLITA." DIJO BACA. ACUSANDO AL JUEZ THOMPSON DE INTENTAR DE SILENCIAR EN VIOLACION DE GARANTIAS DE LA PRIMERA ENMIENDA " LA VOZ DECIDENTE EN DEFENSA DE AQUELLOS QUE NO TIENEN VOZ ( LOS MILLIONES DE TRABAJADORES INDOCUMENTOS EN LA SOCIEDAD NORTE AMERICAANA Y AQUELLOS QUE SUFREN EL IMPACTO DE LA NORMA RASISTA DE INMIGRACION.... LOS 20 MILLIONES DE CHICANOS Y LATINOS DE ESTE PAIZ"

BACA ANADIO QUE " CON SU ORDEN EL JUEZ THOMPSON HA REDUCIO EL NIVEL JURIDICO FEDERAL AL NIVEL DE SUD AFRICA, CHILE, GUATEMALA Y OTROS ESTADOS TOTALITARIOS". EL JUEZ THOMPSON Y SUS CAMARADAS DE IMPONER CENSURA SIN PROCESO DEBIDO CONFORME A LA LEY, A LO QUE PERSONAS EN SAN DIEGO PUEDAN VER O EXPRESA? PREGUNTAMOS, ESTA EL JUEZ THOMPSON SUSPENDIENDO LA GARANTIAS CONSTITUCIONALES Y IMPONIENDO " LEY MARCIAL" SOBRE UN INDIVIDUO QUE NO ESTA DE ACUEDRO CON SUS OPINONES POLITICAS? CONTRA QUIEN EJERCITARA ORDEN JURIDICA POR RAZONES DE SEQRIDAD, PERSONAS QUE EJERCEN LOS DERECHOS BAJO LA PRIMERA EMIENDA .... AQUELLOS QUE SE OPONEN EN LA NORMA ESTADO-UNIDENSE EN AMERICA CENTRAL?, VIOLENCIA DE AGENTES DE LA PATRULLA FRONTERIZA?, LAS POLISAS ECONOMICA DE EL PRESIDENTE REAGAN?, Y HASTA LA ORDEN DE LOS JUEZES FEDERALES? BACA CONCLUYO, " LA ORDEN DEL JUEZ THOMPSON ES OTRA MANISFESTACION DEL RACISMO CONTRA LA COMUNIDAD CHICANA EN LOS ESTADOS" Y DEMANDO QUE EL JUEZ

7 Highland Avenue, National City, CA 92050 (619) 474-8195



THOMPSON RETRACTARA SU ORDEN ILEGAL Y ANTICONSTITUCIONAL, Y HACER UNA DEBIDA DISCULPA A LA COMUNIDAD CHICANA, Y QUE LA OBRA DE ARTE SE RESTUARE A SU ORIGINAL LUGAR FRENTE LA CORTE FEDERAL.



# ACLU to fight for banned art

*U.S. Courthouse removal of work denounced*

By Vicki Torres  
*Tribune Staff Writer*

David Avalos, an artist whose controversial work was removed Monday evening from display in front of the downtown U.S. Courthouse for "security reasons," has enlisted the American Civil Liberties Union, which plans court action to get the piece restored.

"The right to due process was violated, and Mr. Avalos's First Amendment rights," said Greg Marshall, legal director of the San Diego Chapter of the ACLU. "The reason for removing it seems very clearly content-related."

The artist appeared with Marshall at a press conference yesterday at the courthouse. Avalos said his work raised the question of "where do you go in public to think about federal concerns?"

Chief U.S. District Judge Gordon Thompson Jr. said yesterday that he ordered the piece removed after federal security guards notified federal judges that the work's boxlike construction could provide a hiding place for bombs.

Federal judges at their regular Monday meeting decided, without discussing the content of the work, to

have the piece removed, Thompson said.


"I didn't even know it had a political content," Thompson said. "Whatever the ACLU, the artist or anyone else wants to read into this, that's their prerogative, but we did not discuss anything other than security."

Mary Filippini, regional director in San Francisco for the General Services Administration, said the agency's Living Buildings Program, which allows for public art in federal buildings, usually does not exhibit artwork concerning religion, strong political statements or sexual themes.



# THE TRIBUNE

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Page B-10

## 'San Diego Donkey Cart' outrage

TWO ERRORS were made in the case of the artwork installed in front of the Federal Courthouse Sunday night and removed Tuesday by order of the federal judges who work in the courthouse.

The artwork, titled "San Diego Donkey Cart," is an assemblage behind chickenwire, depicting a Mexican seated in a donkey cart of the type parked on Tijuana's main street as a prop for photographers to take souvenir shots of American tourists. But, in the artwork, the Mexican is being frisked by a U.S. border patrolman. Signs on the assemblage say, "Bienvenidos Amigos" and "Raza Si, Migra No," that is, "Welcome, friends" and "The Mexican people yes, the U.S. Immigration Service no."

It is understandable that the federal officials who work in the courthouse were offended by the political message of this exhibit. They spend all of their working lives trying to enforce the provisions of the U.S. Constitution and federal law, including immigration law. They saw the artwork as an insult.

Freedom of artistic expression is guaranteed by the First Amendment, but the federal government has the right and duty to maintain the dignity of its public premises. The first mistake was made by the government when the U.S. General Services Administration granted permission for the artwork to be exhibited for two weeks in the courthouse plaza. The artwork obviously violated the government's own guidelines on art displays in and around public buildings. Political and religious propaganda is sup-

posed to be screened out. This piece of political propaganda was approved.

The second mistake was made by the 11 judges who held a meeting in the courthouse Monday. They acted quickly in ordering the artwork removed. The pretext was that it offered a security risk because a bomb could be planted inside it. Flimsy pretext.

Summary action was unjustified and unjudicial. We discount the security aspect and believe no great damage would have been done by allowing the assemblage to remain in place for two weeks, when it would have been removed without controversy. The government's second mistake was worse than its first. It gave excuse for cries of censorship and attracted much greater attention to the artwork than if the judges had simply ignored it.

The display would be more appropriate on the steps of the Capitol in Washington. That is where the fault lies for the failure to enact a workable and just U.S. immigration law. Those who are trying to enforce the existing law are doing their best, but our defective law does cause great injustice.

Thousands of illegal aliens suffer because of the hypocrisy of American employers who attract them with the offer of good jobs, then exploit them as cheap and willing workers. These employers are sheltered by their friends in the Congress from any prosecution for flouting U.S. immigration law.

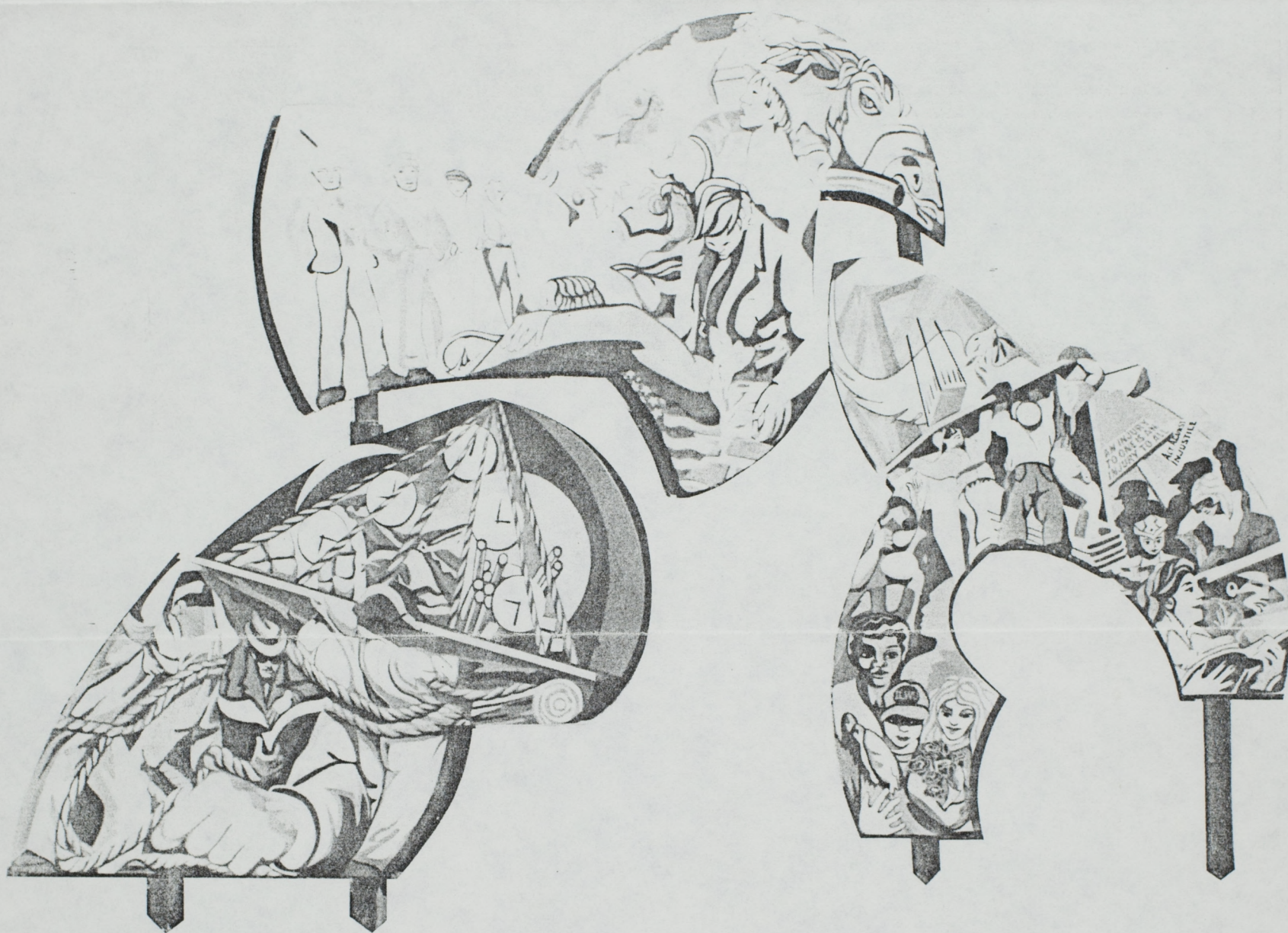
It's a far greater outrage than anything depicted in the offending artwork.



# COMMUNITY MURALS

AN INTERNATIONAL VISUAL ARTS MAGAZINE

FALL 1986  
Volume 11, Number 3





# EDITORIAL

## Arizona Apartheid

One of the things visual arts do best is to make connections. The Reagan administration and its followers in the mass media adamantly refuse even to admit that connections exist between various examples of government policy. Since we were insulted by the July 4 saccharine extravaganza celebrating the refurbished Statue of Liberty as a symbol of this country's ideals of freedom and democracy, readers of *CMM* are encouraged to make the connections between the celebration's hype and the reality of millions of people's lives. The hype hides the connections we all should make.

For example, at the same time the Statue of Liberty was being touted as a symbol of our nation's openness to immigrants, our country's current policy excludes many of the most needful who wish to come here. In the case of some from Central America, immigrants, in the name of law and order, are being returned to torture, prison, and death. The law has become a tool of oppression. Others, such as Haitians, are put into jail here before being returned to similar fates at home.

While Los Angeles talked of building a Statue of Liberty West, the KKK and independent reactionaries organized vigilante border patrols to "help" the Immigration Service capture people crossing our borders from Mexico.

Our government's actions are, while despicable, consistent. Rejecting unanimous condemnation by the World Court of our warmaking on Nicaragua, continuing support of repressive dictatorships throughout the world (as long as they are right-wing), and cutting us off from emerging and struggling nations everywhere, the United States also seeks to isolate internal groups which have conflicting interests.

Not to mention the hypocrisy-become-law of the recent Supreme Court decision upholding an anti-sodomy statute. The virulence of anti-gay and anti-lesbian forces is currently seen in a Lyndon LaRouche California ballot proposition which, if passed, would quarantine anyone who tests positively for the AIDS antibody. Lest we dismiss this as a fascist fantasy, remember that Larouche did gather the thousands of signatures necessary to place the measure on the November ballot.

The connections are there if we but look. Relocation of 100,000 Navajo Indians from their ancestral homelands at Big Mountain, Arizona, was scheduled for only three days after July 4. This Arizona apartheid is a model for the forced relocation into bantustands in South Africa. Blacks lived on land the ruling group wanted in South Africa, so they were put into camps (called "townships"). Indians have land major corporations want (in this case, Peabody Coal), and the government tries to relocate the Indians (again; remember the 19th century) onto still different reservations (are they called that because they reserve the best lands for corporate exploitation?).

The more we are successful in illustrating connections between events the government and the media portray as separate, the more we challenge people's intelligence instead of insulting it, the more we can gain of an accurate sense of our own histories, the closer we will be to a more just world and to having a national policy that instead of being shameful supports the movement of all people for economic, racial and sexual equality.

## TABLE OF CONTENTS

### BOOK REVIEW

*Community Art and the State* ..... 4

### MATERIAL AID

Modern Mural Paints ..... 6  
*Mural Manual* ..... 7

### INTERNATIONAL

Diego Rivera—Myth and Reality ..... 8  
 Recent Publications on Diego Rivera ..... 11

### NATIONAL

Daniel Galvez Mural Project in Boston ..... 13  
 The Donkey Cart Caper ..... 14  
 Longshore Union Mural ..... 16  
 Filipino Mural in San Francisco ..... 18  
 Endangered Species ..... 19

### MIXED MEDIA

Poster Archives ..... 20  
 Rini Templeton: 1932-1986 ..... 21

Front cover—Longshore Union mural, San Francisco, 1986 (see article page 16)

Back cover—The Donkey Cart Caper, public sculpture by David Avalos (see article page 14)

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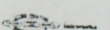
Materials for future issues must reach us by the following dates:

Fall 1986 by Thursday, July 24, 1986  
 Winter 1987 by Thursday, October 2, 1986  
 Spring 1987 by Thursday, January 22, 1987  
 Summer, 1987 by Thursday, July 23, 1987

We must have possession of any materials to be included by these dates. Please send us information, with black and white glossy photos (and slides, if possible) about projects in your part of the world.

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# The Donkey Cart Caper

## Some Thoughts On Socially Conscious Art In Anti-Social Public Space

by David Avalos

### To Begin With . . .

In December, 1985 I was given written permission by the General Services Administration's office of the Field Office Manager in San Diego, California to place a sculpture, a painted wood construction, in front of the Federal Courthouse for a two week period from January 4th through 17th, 1986.

I was one of four artists whose works were being shown at different locations in downtown San Diego as part of an exhibition entitled "Streetworks" sponsored by Sushi, Inc.—a non-profit performance and visual art gallery.

I installed the work on January 5th. The next day the General Services Administration removed it and placed it in the basement of the Federal Building after receiving a memorandum which stated: "For security reasons you are hereby directed forthwith to cause the removal of the structure standing in front of the United States Courthouse."

It was signed by Gordon Thompson, Jr., Chief Judge of the United States District Court in San Diego.

Consequently, with the help of the American Civil Liberties Union, I and Sushi, Inc. are suing both the General Services Administration and Chief Judge Thompson. The case is being heard in the U.S. District Court in Los Angeles.

### About "the structure" A.K.A. San Diego Donkey Cart . . .

The sculpture, "San Diego Donkey Cart" follows the basic design of the carts found on Avenida Revolucion in Tijuana, Mexico. These carts are a Mexican form of tourist art. Originally in the 1930's and '40's they were modified animal-drawn work vehicles but now the carts are designed specifically as photographer's sets for the taking of photos of and for visitors to this border city. These souvenirs document the tourist surrounded by the stereotypical Mexico—rural with its cactus, colorful with its serapes and pre-industrial with its beasts of burden.

The fact that this souvenir is created on the streets of a modern city—the second largest urban center on the West Coast of North America seems to make little difference. The non-

functional and unmoving cart succeeds in transporting the tourist away from the contemporary social, economic and political issues of Tijuana. These issues inevitably involve San Diego as well as can only be confronted by people capable of seeing each other with both feet on the ground.

I am sure that if the San Diego Donkey Cart had confined itself to cactus and serapes Chief Judge Thompson may have been willing to have had a souvenir photo snapped. But I added a portrait of a Border Patrol Agent arresting an undocumented worker.

### The "Illegal Alien" As Media Celebrity . . .

The Mexican worker within U.S. society has become well-established in the public's consciousness as the so-called illegal alien. This group receives constant exposure through media such as newspapers, magazines, radio, films and television. The sense is created that this group, though existing outside of the law, is constantly available for public scrutiny. Of course, U.S. society suffers from a deformed sense of what "public" really means. Virtually all forms of mass media in this country are privately owned, and for the most part privately consumed. Nevertheless, we maintain the absurd notion that we are involved in public information exchange while we sit on the toilet reading a newspaper item edited by a functionary of a profit-making private business. It seems to me that more and more our sense of what is public has nothing to do with the idea of social interaction on public property. Ironically, we have a situation where the Mexican worker as a group seems to exist in a public realm, is in fact a media celebrity, while, actually, little, if any, opportunity exists

for social interaction or dialogue between them and those of us comfortably occupied in front of our television sets.

Suspended above Tijuana's Avenida Revolucion the tourist never comes to terms with the gritty realities of contemporary Mexico. Out of touch with a truly public space the San Diego resident has no location for social dialogue and interaction and is therefore limited in his or her ability to come to terms with modern U.S. society and the disgrace of 20th century slavery—the condition of the non-citizen worker within that society.

### Public Art, Private Dreams . . .

So I created a simulacrum of a Tijuana donkey cart, replacing the usual backdrop panel depicting an Aztec warrior with one depicting a Mexican worker being handled by a Border Patrol Agent, and transported the whole thing to the Federal Courthouse in downtown San Diego.

Ideally, I had hoped to combine artistic concerns with political activism and some moderate media hype. My plan was to station myself next to the sculpture for a couple of hours each day around lunch time. I expected to engage passers-by in conversations about public space, public art, immigration and political expression. I wanted to interact socially with my fellow residents on public property while discussing issues of public concern.

The parent bureaucracy of the Border Patrol, the Immigration and Naturalization Service occupies offices overlooking the location of the San Diego Donkey Cart in front of the courthouse. I anticipated complaints from them about the content of the work. I figured that if I kept my ears open that I might be able to create a controversy that could result

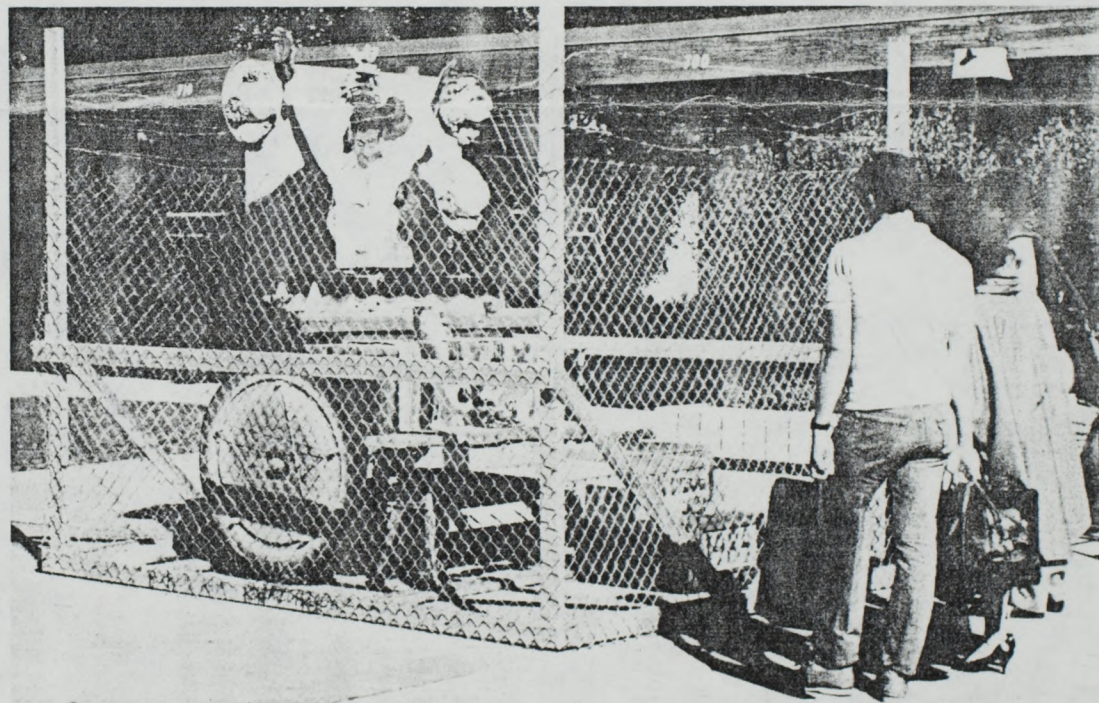


photo © 1985 David Avalos



in a local newspaper feature or two. But the reality was something else.

### Public Art, Private Acts . . .

There has never been any doubt in my mind that Chief Judge Thompson's action to remove the San Diego Donkey Cart was censorship based on the content of my work. Therefore, the lawsuit filed in the Los Angeles Federal District court asks that:

1) The actions of Chief Federal District Judge Gordon Thompson, Jr. and the General Services Administration be declared unlawful

2) The "San Diego Donkey Cart" be placed on exhibit in front of San Diego's Federal Courthouse as originally agreed for twelve more days

3) The plaintiff's costs and attorney's fees be paid for by the defendants.

### Some Thoughts On The Mass Media . . .

Some people felt that the "San Diego Donkey Cart" received its greatest public attention (through the mass media) after it was removed from public view (the street). Mixed-up ideas about what's public are at work here.

Actually, I was a willing participant in the daily media coverage of the event—coverage which was both national and international. But, it soon dawned on me that the issues being discussed were not immigration or public art or public space and social interaction. The issue was reduced to the single one of government censorship, which explains the high media interest. The mass media like to pretend that the First Amendment's guarantee of free expres-

sion is their license to make a buck. And while I appreciated all the help I could get I had no illusions that the media were interested in discussing their own role in the creation of anti-social public space.

By "social" I mean having to do with human beings living together as a group in a situation requiring that we communicate and interact as equals with one another directly. The anti-social nature of the news media contributes to political inequities. So does the law.

In 1986, the social reality of the undocumented worker parallels that of the antebellum South. Black slaves were an integral part of plantation society, yet were kept out of all social institutions through slavery laws. So, too, the Mexican laborer is an indispensable part of the economic vitality of the "sun belt" states, yet is kept out of all social institutions by U.S. immigration law.

With the media and the law we have structured a society in which Mexican workers hand-pick the lettuce and tomatoes which we put in our mouths whenever we eat a "McD.L.T.". Yet it is nearly impossible to have a dialogue with these workers in public space about the conditions of their lives within a society which benefits so much from their presence.

As activist community artists we need to understand the nature of our work in relation to social interaction in public space. I feel that I am primarily a communicator—using all forms of communication yet understanding that face-to-face dialog is the most potent form.

When Chief Judge Thompson rendered the "San Diego Donkey Cart" invisible, it revealed that our sense of what is public, legal and artistic can be basically anti-social.

### On Community Art . . .

Art which claims that it is purest only when free of social reference or interaction is in some ways irresponsible and ultimately the least capable of defending its freedom. Freedom of expression is a political guarantee. It is nonsense to insist that art never refer to the context which allows its freedom. Art is a reflection of the health of a society's freedom of expression. We have a community responsibility to communicate through art with society's political and social structure if we are to expect freedom to become a reality. The "San Diego Donkey Cart" was one way I tried to measure our state of health. The attention that the work has received is an indication of how sick we have become and, I hope, how concerned we are with recovery.

! RAZA SI, MIGRA NO !

### Public Issues, Private Media . . .

*"I didn't even know it had a political content"*

Chief Judge Thompson,  
*The Tribune* 1/8/86

*"If Sylvester Stallone showed up at the federal courthouse for a special screening of RAMBO, Judge Thompson would be there looking for an autograph. . . What they're saying is if they agreed with it, it's art, and if they don't, it's political."*

Avalos, San Jose  
*Mercury News* 1/9/86

*"We didn't know if some kook would get into this. . . in the middle of the night and plant some bomb. We've got these kooks out there."*

Chief Judge Thompson,  
*The San Diego Union*  
1/8/86

*"Should you be prevented from criticizing the government for your own good. . . for 'security reasons'? People like Marcos and Botha might think so, and now, a federal judge apparently agrees"*

Michael Tuck, KGTV-10  
1/8/86

*"Has Judge Thompson declared martial law in San Diego?"*

Herman Baca, *The San Diego Union* 1/8/86

*"We're just trying to protect our courthouse."*

Chief Judge Thompson  
*Los Angeles Times*  
1/8/86

*"I don't know what the judge meant by security reasons. There are plenty of places inside the building that are better places to hide a bomb."*

Greg Marshall  
*Los Angeles Times*  
1/8/86

*"We discount the security aspect and believe no great damage would have been done by allowing the assemblage to remain in place for two weeks"*

Editorial, *The Tribune*  
1/9/86

*"My specific direction, as Chief Judge of this District Court, was not based upon any personal feelings I had about the artwork itself. . . My direction was based solely upon a need to preserve security. . ."*

Chief Judge Thompson  
Sworn Declaration, 5/5/86

*"The idea that the work represents a security threat is complete baloney. I played by the book and got the permit. Now a federal judge is acting as art censor and trying to put on a coverup."*

Avalos, *San Francisco Chronicle*, 1/9/86

*"This man could have put that object any place he wanted to, any other government building, where there is no litigation or where there isn't so much volatility and dissatisfaction. We have enough problems around here already"*

Chief Judge Thompson  
*New York Times*  
1/21/86

*"I refuse to submit to a violation of my freedom of expression."*

Avalos, *San Diego Union*  
1/8/86