

Peace T-shirt arrest sparks protests in New York

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The arrest at an Albany, New York shopping mall of a man wearing a T-shirt bearing peace slogans sparked protests this week by area residents, forcing the mall's owners to drop criminal charges.

Steve Downs and his son Roger were shopping March 3 at the Crossgates Mall in a suburb just outside the New York state capital when they both purchased T-shirts at a mall store that provides custom lettering. Downs, 60, the chief attorney in the Albany office of the New York State Commission on Judicial Conduct, had "Peace on Earth" printed on one side of his T-shirt and "Give Peace a Chance" on the other. His son's shirt read "No war on Iraq" and "Let Inspections Work."

The two decided to put the T-shirts on over their sweaters and continued shopping. They were accosted by security guards in the mall's food court and told that they had to remove the shirts.

While Roger Downs complied, his father refused, insisting that he had a First Amendment right to wear the shirt. "I don't think we have to take off the T-shirts," he said. The guards called police, who handcuffed the attorney and hauled him into court for arraignment on trespassing, a charge punishable by 15 days in jail.

"My point was I'm not trying to convert anybody," Steve Downs told a local newspaper. "This was a statement of where I was in my life." Both he and his son said that they had not spoken to anyone in the mall besides two people who had come up to compliment them on the shirts.

In a written statement, mall management defended the actions taken against Downs and his son. "The individuals were approached by security because of their actions and interference with other shoppers," it said. "Their behavior, coupled with their clothing to

express to others their personal views on world affairs, were disruptive of customers." The statement in no way described the disruptive behavior allegedly exhibited by the two.

The arrest sparked an uproar. There had been earlier reports of incidents in which the mall had asked people wearing antiwar slogans on their clothing to leave, but the confrontation with Downs marked the first arrest.

On March 5, over 150 protesters wearing T-shirts with antiwar slogans marched into the mall, walking past shops and occupying tables in the food court for half an hour before gathering outside the management's office. Many of them said that they had come anticipating that they too would be arrested.

While none of the demonstrators were arrested, one man was punched by a right-wing thug who screamed "Remember 9/11" at the crowd and demanded that they leave. Mall security apparently did not find this assault as "disruptive" as Downs's T-shirt. They merely escorted the assailant away from the protest, making no attempt to have him arrested.

The local police department acknowledged that it had been deluged with calls, some from as far away as Britain, denouncing the arrest of Downs.

In an apparent response to the protests, the mall's management asked police to drop the charges against Downs. At the same time, however, it stressed that it would continue to act against customers wearing "inappropriate" clothing.

The suppression of free speech in public shopping malls has been the subject of recurrent civil liberties litigation, with the courts frequently ruling that private property rights outweigh the guarantees of the First Amendment. These cases have generally involved political groups attempting to campaign at malls.

In Downs's case, however, civil liberties advocates

pointed out that he was not in the mall to stage a demonstration, but was merely shopping and wearing a garment sold by one of the mall's shops.

Malls have no right to suppress the free speech rights of their own patrons, insisted Arthur Eisenberg, the legal director of the New York Civil Liberties Union. "We wonder where such censorship will end," he said. "Will the mall start prohibiting customers from wearing political buttons? Will it prohibit Sikhs from wearing turbans?"

"This is a policy that's not enforced equally," said Erin O'Brien, an organizer of the March 5 protest at the mall. "It's only people in the recent months who have antiwar or peace T-shirts who are being asked to leave the mall."



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