

# NYYP

## NEWYORKPRESS

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Beneath our feet—the work of a criminal?

## Scribble Man's Day in Court

**I**'M NOT DE LA VEGA," says James De La Vega. To a woman stopping by his studio, he introduces himself as John. Other times, he tells people he's James' brother. De La Vega, the philosopher-poet, chalks sidewalks with drawings of sharks and maxims like "Many of us are helpless sheep amongst ferocious wolves."

A week before appearing in Bronx Criminal Court on charges stemming from a second arrest for, essentially, making graffiti, De La Vega sat with his mother on the sidewalk outside his Lexington Ave. studio and smoked a thick, round cigar. He watched the storm darken atop the hill at 102nd St. His daughter, having finished her lunch, hopped off to the park, hand-in-hand with a friend. De La Vega said he was annoyed that all the drama from his second arrest had disrupted his strategy. Preparing his case and organizing a rally—while still running his storefront studio—left him no time to paint, no time to chalk sidewalks and no time to work with the kids of El Barrio.

Last summer, days after the death of Celia Cruz, De La Vega spent the night painting a huge portrait of her in East Harlem. Later, driving to drop off a friend in the Bronx, De La Vega went to work again. Early in the morning of July 17, he was arrested for painting a mural on the side of a building at the foot of the Willis Avenue Bridge. The court charged him with three misdemeanors: criminal mischief, making graffiti and possessing graffiti instruments. Robert T. Johnson, the Bronx district attorney, is pushing for jail time.

De La Vega said his art isn't political but then retracted and pointed to a black t-shirt that read in white letters, "Colored Only." Greeting cards sold in his store bear blue ink drawings resembling the painting that got him arrested—a fish leaping into a fishbowl, or two fish suffering irreparable solitude in two different fishbowls, or sometimes just a fish jumping out of a bowl.



**"LOOK AT THE CROWD, AND IN THE RAIN. THIS DOESN'T EVEN HAPPEN FOR POLITICIANS."**

Museum Mile runs up 5th Ave. past the Met and the Guggenheim to el Museo del Barrio. Turn right and you'll be in East Harlem. Under the Amtrak and two blocks down are some of De La Vega's murals. He's painted memorials of his father and the attacks on the World Trade Center. The woman selling coffee in the bakery wears one of his t-shirts that reads "Realiza Tu Sueño." His art doesn't hang in frames on the walls.

On 103rd St., Hope Community Inc. and Banco Popular sponsored a wall of De La Vega's murals in 1999. He painted José "Chegui" Torres poised, ready to fight. There are two portraits of his mother, always recognizable by the hoop in her hair. On a white tombstone, he painted "Don't Think We Haven't Noticed the 96th Street Border Moving North." In the Associated Supermarket on Lexington Ave., De La Vega's paintings hang above the produce aisle; workers bagging groceries wear his t-shirts.

De La Vega was born in East Harlem and attended York Preparatory School on scholarship. He graduated from Cornell. Back in the neighborhood, he began chalking sidewalks with proverbs from the Bible. He worked as a school-teacher but left the job in 1998 and opened a small studio on 103rd St. In 2001 he moved into a larger studio on Lexington Ave. Asked if the attacks on the World Trade Center changed anything, he pointed to a t-shirt that reads, "This moment is more precious than you think."

Clad in an army-green shirt reading

"Spanish Harlem" and a camouflage hat with "Become Your Dream," De La Vega ate lunch with his daughter and then proclaimed that she was "the real De La Vega." Out of his studio he sells t-shirts, hats, bags and paintings. Or it should be said, Elsie Matos, his mother, sells them. Of her he's written, "Sometimes the King is a Woman." Polaroids hang on the wall of De La Vega with Congressman Charles Rangel, De La Vega with Dave Chappelle.

"You could call this a battle." He speaks in a low, declarative tone, often cursing and passing judgment.

In the rain last Wednesday afternoon, 150 people filled the community garden next to his studio and another 50 filled the sidewalk outside the gate. Cops marched from the curb. Community leaders, faculty from local schools and others gave short speeches in his defense. In one way or another, everyone said that what De La Vega had done did not warrant a criminal conviction.

John Ruiz, a Democrat running for the state senate said, "Look at the crowd, and in the rain. This doesn't even happen for politicians."

"The prosecutor has an opportunity to use some intelligence in how they will apply the law," said Fordham law professor Eduardo Peñalver. He explained how much discretion the district attorney actually has in his prosecution.

"I am guilty of painting on a wall in the Bronx, but I am not a graffiti artist," De La Vega said. He read passages from Walt Whitman and Ralph Waldo Emerson because, he said, on the table of justice there was no room for Spanish poetry. The rain dripped off

his huge, brown afro. In the end he stumbled over his handwritten speech, so he halled it up, threw it away and preached to the crowd. He closed, saying, "I'm not prepared for this. Today I might go to jail for 30 days."

After the rally, with sticks of colored chalk, people scribbled their undying love and support for De La Vega on the sidewalk. A big guy huilt like a tank guarded the door to the studio while De La Vega disappeared inside.

But it turns out that the artist won't go to jail—not just yet. Charged with the support from the rally, De La Vega appeared before Judge Joseph Dawson in the Bronx two days later. With his mother and Bronx Assemblyman Ruben Diaz at his side, he turned down the district attorney's offer: a year of probation for a guilty plea. Instead, he'll go to trial.

"I could not accept having to admit to intentionally damaging property," he said. "My intent was to share my art in the hopes of bringing a smile or a thought to the commuters stopped at the traffic light."

It could have been simple—avoid jail time and behave for a year, but De La Vega, on principle, will pin the law against his life as an artist. The penal code concerning graffiti has put away wrong-doers for even gluing placards to scaffolding, but De La Vega's case will probably rest on the fact that one guilty of "making graffiti" must have an "intent to damage property." It will be difficult for the city to prove that De La Vega, painting fishbowls in an industrial area of the Bronx, intended to damage either the building, the wall or, on a larger scale, the neighborhood. □