

JUN 20 2018

IN THE DISTRICT COURT OF ROGERS COUNTY
STATE OF OKLAHOMA

KIM HENRY, COURT CLERK

CHARLES WILLIAM "CHIP" PAUL
Plaintiff,


DEPUTY

v.

Case No. CJ-2018- 245

SCOTT WALTON, individually and

in his official capacity,
Defendants.

PETITION

COMES NOW the Plaintiff Charles William "Chip" Paul (Plaintiff) and hereby submits his Petition in the above matter. In support thereof, Plaintiff alleges and states as follows:

1. Plaintiff is an individual who resides in Tulsa County, Oklahoma.
2. Defendant Scott Walton (defendant) is an individual and is the Sheriff of Rogers County Oklahoma. Walton is a state actor and was acting under color of law at all material times.
3. The Rogers County Sheriff is a public body under Oklahoma law, specifically 51 O.S. § 152(10). Additionally, Walton was acting in conspiracy with state actors, including law enforcement by attempting limit public participation in a meeting (described below) and imposing unlawful time, place and manner restrictions and engaging in prior restraint.

4. Plaintiff was subjected to an unreasonable seizure prohibited by the 4th Amendment of the United States Constitution. Further, Plaintiff was retaliated against for exercising his rights of free speech, association and assembly.
5. That Plaintiff is an advocate of legalized medical marijuana and Co-founder of Oklahomans For Health, an organization that successfully petitioned to add medical marijuana to next week's primary ballot, same being State Question 788 ("SQ 788").
6. Beginning at least in April of 2018, Walton began to improperly use County funds, resources and property to voice his personal opposition to SQ 788, an Oklahoma State Question that seeks to legalize marijuana for medical purposes. Walton's improper use of public resources and property includes: Speaking out against SQ 788 on the Rogers County Sheriff's Departments Facebook page which is publically funded; Walton advocated that other law enforcement do the same advocating as he had, using county funds to do so; Walton asserted that legal counsel advised him that it was legal; Rogers County District Attorney's Office as well as other law enforcement within Rogers County similarly engaged in a vocal campaign against 788 and used public funds, resources and property to espouse personal views and created the appearance of official endorsement. This includes speaking at numerous public forums. Further, Walton is active and vocal with "SQ 788 is NOT Medical", an organization that includes several chambers of commerce, religious groups, medical associations, law enforcement groups and the Oklahoma Farm Bureau, and same has spent more than \$500,000 to date trying to persuade Oklahomans to vote against the medical marijuana state question.

7. Walton's intolerance of opposing views reached its inevitable apex on Monday June 18th 2018. Plaintiff attended a public forum hosted by Light of Hope, a non-profit entity located in Catoosa, Oklahoma focused on addiction recovery. The forum was in Rogers County, specifically Claremore, Oklahoma and was sponsored by entities opposed to SQ 788.
8. Plaintiff attended the meeting. Plaintiff was quietly sitting in the back of the audience and people in attendance were asking questions and Plaintiff raised his hands to speak several times to be called on. Plaintiff was ignored and commented privately to his wife a few times that some of the information being relayed was inaccurate but was in no way disrupting the forum.
9. Plaintiff turned to make a comment to a Deputy located behind him, but when he turned Walton got in Plaintiff's face yelling at him to be quiet or get out. Plaintiff stated that he would be quiet, at which time Walton grabbed Plaintiff's throat and neck, forcibly removing him from the Claremore Event Center. Plaintiff all the while indicated he would leave peacefully. Walton slammed plaintiff's head into the door as he was physically removing him. Walton placed both his hands on the back of Plaintiff's neck and utilized a tactical maneuver reserved for subduing individuals in a dangerous condition. This includes both his thumbs being placed at the bottom of each side of Plaintiff's neck. Part of the incident was captured on video. See:
<https://newsok.com/article/5598620/video-medical-marijuana-advocate-forcefully-removed-from-public-forum-by-rogers-county-sheriff>.

10. Plaintiff engaged in protected conduct by his involvement with SQ 788, including his freedom of speech, association and assembly. However, defendant engaged in unlawful time, place and manner restriction aimed solely at suppressing plaintiff and supporters of SQ 788 from engaging in the political process and such conduct is tantamount to prior restraint. This was an egregious abuse of Walton's power and authority as Sheriff of Rogers County.

11. Walton's conduct was aptly described by the ACLU, which in a press release has stated:

The violent actions of the Rogers County Sheriff signal a disturbing reliance on government force to silence political speech. Law enforcement must use force only under the most serious and threatening circumstances, a standard that Mr. Paul's behavior did not come close to meeting on Monday night. The Rogers County Sheriff is not a stranger to using his taxpayer funded office to wage a private war against SQ 788, but with the unwarranted, violent removal of Mr. Paul from a public forum, the Sheriff's actions have become criminal.

It is clear that Sheriff Walton believes that medical cannabis will disrupt his business model of arresting patients and seizing their cash and property; in fact, he has a history of using his government office and public funds in questionable ways to protect his bottom line. However, his political fear mongering escalated to dangerous and criminal levels last night when he and his deputies departed from their civic duty and unleashed their rage on an invited member of the public. Sheriff Walton's criminal act is also a serious violation of the United States and Oklahoma Constitutions. Failure to take appropriate action against the Rogers County Sheriff would send a clear message that authoritarian government actors in Rogers County are above the law and unaccountable to the citizens they ostensibly serve." <http://www.newson6.com/story/38464191/aclu-reacts-to-action-by-rogers-co-sheriff-at-state-question-788-forum>.

42 U.S.C. §1983- UNLAWFUL SEIZURE

In support of this Count, Plaintiff re-states and re-alleges all the foregoing allegations as though fully set forth herein.

12. Plaintiff was seized unreasonably and without lawful justification and such seizure was unreasonable.

13 Plaintiff was physically and forcibly removed and was not violating any law and moreover any force was excessive in scope. Plaintiff believed that an arrest was imminent and constitutes a seizure.

14. That the conduct of Defendant is in violation of Plaintiff's 4th Amendment rights, and by and through 42 U.S.C. §1983 Plaintiff hereby states a claim against Walton for violating his civil rights.

42 U.S.C. § 1983-RETALIATION-PLAINTIFF

15. Plaintiff incorporates all the foregoing allegations as though fully set forth herein.

16. Plaintiff asserted his legal rights to speech, and for association and assembly, all as protected by the First Amendment of the U.S. Constitution, all as set forth above.

17. Defendants retaliated against Plaintiff for engaging in protected conduct.

18. The retaliatory conduct of Defendant violated Plaintiff civil rights, and as such Plaintiff states a claim against Walton pursuant to 42 U.S.C. § 1983.

42 U.S.C. § 1983-VIOLATION OF FREE SPEECH

Plaintiff hereby adopts, re-alleges and incorporates by reference all the allegations contained in the foregoing paragraphs.

19. Defendant placed unreasonable time, place and manner restrictions by allegedly limiting questions to specific point of the forum. However, such policy did not exist and if so was selectively enforced. Plaintiff was singled out not only for the retaliation alleged above, but he and those supporting SQ 788 were unlawfully restricted in violation of their civil rights. Further, the purpose of such policy was to chill, squelch and ultimately silence the speech of plaintiff and other supporters of SQ 788. To the extent any restrictions were to limit speech were in existence, such restrictions are an impermissible restriction on speech, and as such violated Plaintiff's First Amendment rights.

20. Defendant's mere disagreement with Plaintiff's speech is not a sufficient basis to impose such unlawful restrictions, and in fact use of an elected office in order to do so is unlawful. Such unlawful restrictions placed upon Plaintiff violated his civil rights, and as such Plaintiff states a claim against Walton pursuant to 42 U.S.C. § 1983.

INJUNCTIVE RELIEF AS TO WALTON IN HIS OFFICIAL CAPACITY

21. Scott Walton, *vis-à-vis* his position as the elected Rogers County Sheriff, and by misuse of said office, and by misuse of his powers, has a custom, practice, policy and/or procedure (hereinafter simply referred to as "customs") he adopted as a figurehead for use in his office, and public money, to promote his own personal and political gains, was improperly spent. The abuse of power wielded by Walton includes intimidation and violence, including, without limitation, regularly physically detaining persons lawfully on public property or in public places without authorization of law. These physical violations include the acts above described, assaulting and battering

lawyers asking for his signature on a Sheriff's Deed pursuant to legal process of law, and detaining and beating citizens Walton has approached and questioned in public shopping centers. Walton is also a racist bigot calling one employee of the former DA who is African-American a "pet Nig&^r". The abuse also includes using county finances and resources for political purposes, for private financial gain, and for recreational purposes.

22. That municipal liability is appropriate under 42 U.S.C. § 1983 for monetary, declaratory, or injunctive relief because the action described herein represents an unconstitutional policy statement, ordinance, regulation, and/or decision officially adopted and promulgated by Walton as a policy maker and decision-maker for his office, all as communicated through his website, press releases and public statements.

23. Moreover, the constitutional deprivations described herein represents a custom, even though such a custom has not received formal approval through the body's official decision-making channels "because of the persistent and widespread discriminatory practices of state officials Although not authorized by written law, such practices of state officials could well be so permanent and well settled as to constitute a 'custom or usage' with the force of law." Monell v. Dep't of Soc. Servs. of City of New York, 436 U.S. 658, 690-91 (1978).

24. Walton's use of violence on the public in plain view is disturbing, unwarranted, unlawful and must be stopped and enjoined. In the most recent instance, again as well put by the official ACLU statement:

"It is clear that Sheriff Walton believes that medical cannabis will disrupt his business model of arresting patients and seizing their cash and property; in fact, he has a history of using his government office and public funds in questionable ways to protect his

bottom line. However, his political fear mongering escalated to dangerous and criminal levels last night when he and his deputies departed from their civic duty and unleashed their rage on an invited member of the public. Sheriff Walton's criminal act is also a serious violation of the United States and Oklahoma Constitutions. Failure to take appropriate action against the Rogers County Sheriff would send a clear message that authoritarian government actors in Rogers County are above the law and unaccountable to the citizens they ostensibly serve."

25. Therefore, pursuant to the Monnell doctrine, and §1983, Walton and his office should face not only civil liability for his customs above-described, but should also be enjoined from the use of such customs, and thereby prevented from further violating civil rights. Mr. Paul respectfully requests that this Honorable Court enter such an injunction upon proper notice and a hearing.

ASSAULT

Plaintiff hereby adopts, re-alleges and incorporates by reference all the allegations contained in the foregoing paragraphs.

26. Plaintiff saw Defendant come towards him in a harmful, menacing and offensive manner as set forth above.

27. Defendant: (1) acted either with the intent of making a harmful or offensive contact with the person of Plaintiff, or with the intent of putting Plaintiff in apprehension of such a contact; and (2) Plaintiff was placed in apprehension of an immediate harmful and offensive contact with his person by the conduct of Defendant. Also, Plaintiff was caused to suffer fright and terror. OUI 19.1.

28. Plaintiff was in imminent apprehension of unwanted and unwarranted bodily contact by Walton, and therefore Plaintiff was assaulted by Defendant. Therefore Plaintiff hereby states a claim for assault against Walton.

BATTERY

Plaintiff hereby adopts, re-alleges and incorporates by reference all the allegations contained in the foregoing paragraphs.

29. As described above, Defendant grabbed Plaintiff by the back of the neck, head and throat in an unwarranted, unnecessary and offensive matter. Defendant did so by use of unlawful force, and without the consent of Plaintiff.

30. Therefore, Plaintiff states that the Defendant, without the consent of Plaintiff, acted with the intent of making a harmful and offensive contact with the person of Plaintiff. Defendant's acts resulted in a harmful and offensive contact with Plaintiff. OUJI 19.6

31. Plaintiff hereby states that he suffered a battery by Walton and brings a claim for relief for battery against Walton.

PLAINTIFF SEEKS DAMAGES IN EXCESS OF THE FEDERAL DIVERSITY

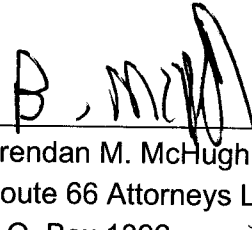
JURISDICTION LIMITS

32. Plaintiff seeks damages in excess of \$75,000.00, and thus in excess of the diversity jurisdictional limits contained in 28 U.S.C. 1332.

CONCLUSION

WHEREFORE, Plaintiff requests judgment in excess of \$10,000.00, an award of punitive damages against each Defendant in excess of \$10,000.00, costs of this action, reasonable attorney fees, that this court permanently enjoin Walton and the Rogers

County Sheriff's Office from engaging in further misuse of office and any other and further relief that this Court deems proper.



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