

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DONALD E. STAHL)	
)	
Plaintiff,)	
)	
v.)	
)	
MATTHEW RODDEN, in his individual capacity;)	
)	
FRED B. COX, in his individual capacity;)	
)	
LTYONA LOVE, in her individual capacity;)	No. 4:11-CV-242
)	
ST. LOUIS BOARD OF POLICE)	
COMMISSIONERS,)	
as a body and through its members individually)	
in their official capacities;)	
)	
FRANCIS SLAY,)	
in his official capacity as a member of the St.)	
Louis Board of Police Commissioners;)	
)	
JEROME D. LEE,)	
in his official capacity as a member of the St.)	
Louis Board of Police Commissioners;)	
)	
MICHAEL L. GERDINE,)	
in his official capacity as a member of the St.)	
Louis Board of Police Commissioners;)	
)	
BETTYE BATTLE-TURNER,)	
in her official capacity as a member of the St.)	
Louis Board of Police Commissioners;)	
)	
and)	
)	
RICHARD H. GRAY,)	
in his official capacity as a member of the St.)	
Louis Board of Police Commissioners;)	
)	
Defendants.)	

COMPLAINT

Plaintiff Donald Stahl (hereinafter “Plaintiff”), for his complaint against Defendants, states as follows:

Introduction

1. On February 6, 2009, Plaintiff was arrested for holding a banner that read “911 was an inside job!” Although no charges were ultimately filed, Plaintiff was handcuffed, taken into custody, and detained for several hours based on the false assertion that he had violated a City of St. Louis ordinance, which bars the display of any sign (or talking or singing amongst other activities) near a street in “which there is such a gathering of persons or stopping of vehicles as to impede either pedestrians or vehicular traffic,” despite the fact that there was no such “gathering of persons or stopping of vehicles.”

2. Additionally, Plaintiff’s banner was seized by police. When the banner was seized it was not broken. It was not returned to Plaintiff, despite multiple attempts, even after the decision not to file charges, until after previous litigation was commenced challenging the constitutionality of the ordinance under which Plaintiff was purportedly arrested and detained. When the banner was returned to Plaintiff, it was broken.¹

¹ The previous case, also in this Court, was *Stahl v. City of St. Louis, Missouri*, No. 4:09-cv-712-FRB. It was a one-count lawsuit naming the City of St. Louis as the only defendant. It challenged the constitutionality of St. Louis Revised Code §17.16.270. The court found that the ordinance is not unconstitutional on its face. An appeal from the decision is pending in the Court of Appeals for the Eighth Circuit, No. 10-3761.

3. This is an action for money damages brought pursuant to 42 U.S.C. § 1983 for violation of Plaintiff's rights under the *First, Fourth, Fifth, and Fourteenth Amendments* to the *United States Constitution*.

4. Plaintiff also has state law claims for false arrest, false imprisonment, and conversion.

5. Plaintiff also alleges that each of these violations were committed as a result of the hiring, training, supervision, policies, customs, and practices, or lack thereof, of the St. Louis Board of Police Commissioners.

Jurisdiction and Venue

6. This Court has original jurisdiction pursuant to 28 U.S.C § 1331 and § 1343 and 42 U.S.C. § 1983 to redress the deprivation under color of state law of rights secured by the federal constitution and supplemental jurisdiction for all state law claims.

7. Venue lies in the United States District Court for the Eastern District of Missouri because the relevant events or omissions giving rise to Plaintiff's claims occurred in the City of St. Louis, Missouri. 28 U.S.C. § 1391(b)(2).

8. Divisional venue is in the Eastern Division because the events leading to the claim for relief arose in the City of St. Louis. E.D.Mo. L.R. 2.07(A)(1), (B)(1).

Parties

9. Plaintiff, Donald E. Stahl, is a resident of Missouri.

10. Defendant Matthew Rodden (hereinafter “Defendant Rodden”) is, and was at all times relevant to the incidents described in this Complaint, a law enforcement officer for the City of St. Louis. He is sued in his individual capacity.

11. Defendant Fred B. Cox (hereinafter “Defendant Cox”) is, and was at all times relevant to the incidents described in this Complaint, a law enforcement officer for the City of St. Louis. He is sued in his individual capacity.

12. Defendant Ltyona Love (hereinafter “Defendant Love”) is, and was at all times relevant to the incidents described in this Complaint, a law enforcement officer for the City of St. Louis. She is sued in her individual capacity.

13. Defendant St. Louis City Board of Police Commissioners (hereinafter “Defendant Board”) is the governing body and employer for the police officers of the City of St. Louis and responsible for the training and supervision of Defendants Rodden, Cox, and Love. The individual board members have legal responsibility and policymaking authority for the Metropolitan Police Department of the City of St. Louis. The Defendant Board, through the individual commissioners, is a corporate body and is authorized to be sued in its corporate name. The Defendant Board had purchased or otherwise had one or more policies of insurance that provide it with coverage for some or all of Plaintiff’s claims, or is otherwise self-insured.

14. Defendants Mayor Francis Slay, Jerome D. Lee, Michael L. Gerdine, Bettye Battle-Turner, and Richard H. Gray are members of the Defendant Board. They are sued in their official capacities.

15. Defendant Board, a governmental unit within the State of Missouri, employed the individually named officers.

16. At all relevant times, all Defendants were acting under color of state law.

Factual Allegations

17. Plaintiff is the organizer and member of a “911 Questions” group in St. Louis. The group believes that the explanations offered and popularly accepted by the public as to the cause of the devastation of September 11, 2001, are, or can be, refuted by photographic evidence of the events, and that said evidence is being kept out of the public’s view.

18. Along with other members of this “911 Questions” group, Plaintiff engages in demonstrations and distributes leaflets to draw public attention to the group’s view and convey it to as many people as possible.

19. On February 6, 2009, Plaintiff and two other members of this “911 Questions” group went to the public Park Avenue pedestrian overpass located near the merger of Interstate 44 and Interstate 55 and demonstrated, including by holding a banner with the words “911 was an inside job!”

20. Plaintiff and the other member holding the banner were arrested for their demonstration activities and refusing to leave the pedestrian path on the overpass.

21. The police report of the incident stated that Plaintiff was released “on summons for demonstrating.”

22. The ordinance under which the police arrested Plaintiff is St. Louis Revised Code §17.16.270:

No person shall sell or offer for sale any goods or merchandise, display any sign or pictures, participate in or conduct an exhibition or demonstration, talk, sing or play music on any street or abutting premises, or alley in consequences of which there is such a gathering of persons or stopping of vehicles as to impede either pedestrians or vehicular traffic.

(emphasis added) (hereinafter “§17.16.270”).

23. The penalty for a violation of §17.16.270 is a fine of up to \$500.00, imprisonment of up to ninety days in jail, or both.

24. On February 6, 2009, Plaintiff had been demonstrating on the pedestrian overpass for over an hour when Defendant Cox of the St. Louis Police Department arrived on the scene.

25. When Defendant Cox arrived at the scene and approached the area where Plaintiff was standing, Cox did not observe any traffic disruptions or unusually high traffic in the South 10th Street area or on Interstate 55.

26. On February 6, 2009, there was no stopping of vehicles or impediment of vehicular traffic in the South 10th Street area or on Interstate 55 during any time Plaintiff was present on the overpass. In addition, there was no gathering of persons that impeded pedestrian traffic.

27. Defendant Cox did not believe the protestors, including Plaintiff, to be rowdy, impeding pedestrian traffic, or impeding vehicular traffic when he arrived on the scene.

28. There was no evidence or reasonable basis to believe that Plaintiff's speech caused a gathering of persons or stopping of vehicles as to impede either pedestrians or vehicular traffic; indeed, even the incident report written after Plaintiff's arrest only contains hearsay from an unidentified caller who alleged that Plaintiff's banner was "offensive" and was causing a disruption in the flow of traffic, not that any vehicles had stopped.

29. Defendant Love of the St. Louis Police Department arrived on the pedestrian bridge after Defendant Cox.

30. Defendant Cox and Defendant Love were later joined by Defendant Rodden of the St. Louis Police Department.

31. Despite having no warrant for Plaintiff's arrest and no probable cause to believe Plaintiff had committed any crime, Defendant Rodden instructed Defendant Cox and Defendant Love to seize the Plaintiff for demonstrating and to seize the banner.

32. At the time of his arrest, Plaintiff was told that the demonstration was causing a safety hazard and he was being arrested for "demonstrating on public property."

33. Plaintiff was not causing a safety hazard.

34. There was no reasonable basis to believe Plaintiff was causing a safety hazard.

35. Demonstrating on public property is not itself illegal.

36. Defendants lacked probable cause to believe Plaintiff had committed any crime.

37. Plaintiff was arrested by Defendants Rodden, Cox, and Love, placed in a patrol van, and taken to the Central Patrol Division of the St. Louis Police Department, where he was eventually released on a summons for allegedly demonstrating in violation of §17.16.270.

38. The summons indicated that Plaintiff was required to appear in Municipal Court.

39. When Plaintiff arrived at court on the date indicated on his summons, he was told that the charges had been dismissed.

40. Upon information and belief, no charges were ever filed against Plaintiff.

41. Despite several efforts to have his banner returned to him, Plaintiff was unable to retrieve the banner until after the commencement of the litigation challenging the constitutionality of §17.16.270. When the banner eventually was returned, it was broken.

42. As the direct and proximate result of the Defendants' actions and inactions, Plaintiff suffered the following injuries and damages:

- a) Violation of his rights under the *First Amendment*, through the *Fourteenth Amendment*, to be free from arrest for constitutionally protected acts of expression;
- b) Being chilled from exercising his *First Amendment* rights because he fears future arrest, detention, seizure of his person and property, or other punitive response;
- c) Unreasonable seizure of his person without a warrant or probable cause in violation of the *Fourth Amendment*, through the *Fourteenth Amendment*;
- d) Unlawful deprivation of his liberty in violation of the *Fifth Amendment*, through the *Fourteenth Amendment*;

- e) Unlawful seizure of his sign in violation of the *Fourth Amendment*, through the *Fourteenth Amendment*;
- f) Unlawful deprivation of his property, by keeping the banner after no charges were filed, in violation of the *Fifth Amendment*, through the *Fourteenth Amendment*;
- g) False arrest and false imprisonment causing deprivation of his liberty;
- h) Conversion of his banner; and
- i) Being compelled, pursuant to a summons, to go to court despite the fact no charges were filed or, in the alternative, that all charges had been previously dismissed.

COUNT I

42 U.S.C. § 1983 Claims

Against Defendants Rodden, Cox, and Love, in their Individual Capacities

43. Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this Complaint as fully set forth herein.

44. Plaintiff's damages were caused by the conduct of Defendants Rodden, Cox, and Love, taken under the color of state law.

WHEREFORE Plaintiff respectfully requests this Court:

- A. Enter judgment in favor of Plaintiff against Defendants Rodden, Cox, and Love, in their individual capacities;

- B. Award Plaintiff compensatory and punitive damages against Defendants Rodden, Cox, and Love, in their individual capacities, for their violation of Plaintiff's constitutional rights under the color of state law;
- C. Award Plaintiff costs and reasonable attorneys' fees;
- D. Allow such other and further relief to which Plaintiff may be entitled.

COUNT II

State Law Claim of False Arrest and Imprisonment Against Defendants Rodden, Cox, and Love, in their Individual Capacities

45. Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this Complaint as fully set forth herein.

46. Defendants Rodden, Cox, and Love restrained, arrested, and imprisoned Plaintiff against his will without legal justification.

WHEREFORE, Plaintiff prays this Court:

- A. Enter judgment in favor of Plaintiff against Defendants Rodden, Cox, and Love, in their individual capacities;
- B. Award Plaintiff compensatory and punitive damages against Defendants Rodden, Cox, and Love, in their individual capacities, for their false arrest and imprisonment of Plaintiff;
- C. Award Plaintiff costs and reasonable attorneys' fees;

D. Allow such other and further relief to which Plaintiff may be entitled.

COUNT III

State Law Claim of Conversion

Against Defendants Rodden, Cox, and Love, in their Individual Capacities

47. Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this Complaint as fully set forth herein.

48. Plaintiff was the owner of the banner seized by Defendants Rodden, Cox, and Love, or in the alternative, was entitled to its possession.

49. The banner was valued at approximately \$100.00.

50. Defendants Rodden, Cox, and Love took possession of the banner with the intent to exercise some control over it.

51. Defendants Rodden, Cox, and Love thereby deprived Plaintiff of the right to his possession of the banner.

52. When the banner was ultimately returned, it was broken.

WHEREFORE, Plaintiff prays this Court:

A. Enter judgment in favor of Plaintiff against Defendants Rodden, Cox, and Love, in their individual capacities;

B. Award Plaintiff compensatory and punitive damages against Defendants Rodden, Cox, and Love, in their individual capacities, for their conversion of his banner;

C. Award Plaintiff costs and reasonable attorneys' fees;

D. Allow such other and further relief to which Plaintiff may be entitled.

COUNT IV

42 U.S.C. § 1983 Claims

Against Defendants Board of Police Commissioners, Slay, Lee, Gerdine, Battle-Turner, & Gray

53. Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this Complaint as fully set forth herein.

54. Prior to February 6, 2009, the Defendant Board's hiring, policies, customs, and practices exhibited deliberate indifference to the constitutional rights of persons, such as Plaintiff, in the City of St. Louis, which caused the violation of Plaintiff's rights.

55. The Defendant Board has previously been sued for violations of the *First, Fourth, and Fifth Amendments*.

56. It was the policy, custom, and practice of the Defendant Board to inadequately supervise and train its police officers, including Defendants Rodden, Cox, and Love, thereby failing to prevent the constitutional violations against Plaintiff.

57. Plaintiff's damages were caused by Defendant Board's hiring, training, supervision, policies, customs, and practices.

58. Defendant Board's actions were taken (and inactions not taken) through the Commissioners, Defendants Slay, Lee, Gerdine, Battle-Turner, and Gray.

WHEREFORE, Plaintiff prays this Court:

- A. Enter judgment in favor of Plaintiff against Defendant Board, Slay, Lee, Gerdine, Battle-Turner, and Gray;
- B. Issue an injunction requiring the Defendant Board, Slay, Lee, Gerdine, Battle-Turner, and Gray, to develop and implement adequate training programs for its police officers about citizen's rights under the *First, Fourth, Fifth, and Fourteenth Amendments*;
- C. Award Plaintiff compensatory damages against Defendant Board, Slay, Lee, Gerdine, Battle-Turner, and Gray, for its violation of Plaintiff's constitutional rights under color of law;
- D. Award Plaintiff costs, including reasonable attorneys fees; and
- E. Allow such other and further relief to which Plaintiff may be entitled.

Respectfully submitted,

AMERICAN CIVIL LIBERTIES UNION OF
EASTERN MISSOURI

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