

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

Jordan Klaffer,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:14-cv-21
	)	
Jerry Bledsoe,	)	
	)	
Defendant.	)	
	)	

COMPLAINT

Introduction

1. Jordan Klaffer was shooting his gun on private property when he was confronted by a police officer, Jerry Bledsoe. Bledsoe told Klaffer he must surrender his guns or be placed under arrest. In Klaffer's view, Officer Bledsoe's actions were harassing him for exercising his rights protected by the Second Amendment. In expressing this view, Klaffer posted to the Internet recordings of his encounter with Officer Bledsoe and strong criticisms of Officer Bledsoe's actions as a police officer. In response, Officer Bledsoe sought and obtained an ex parte order of protection that required Klaffer to remove all video, pictures, and text data referencing Officer Bledsoe from the Internet and to refrain from posting any such data in the future. As intended by Officer Bledsoe, the order acted as a prior restraint on Klaffer and forced him to censor his expression critical of Officer Bledsoe's actions as police officer. In this civil rights action, pursuant to 42 U.S.C. § 1983, Klaffer seeks declaratory judgment that the order violated his rights under the Free Speech Clause and damages. In addition, because Officer Bledsoe's pursuit of the order of protection was intentional and without just cause or excuse and because Officer Bledsoe abused the order of protection procedure to accomplish the censoring Klaffer's expression, which Officer Bledsoe could not have accomplished lawfully, Klaffer

invokes this Court's supplemental jurisdiction over his state-law claims for malicious prosecution and abuse of process.

Jurisdiction and Venue

2. This action arises under the Constitution of the United States, the provisions of 42 U.S.C. § 1983, and Missouri common law.

3. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331 and 1343(a).

4. This Court has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367.

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims occurred in Scott County, Missouri.

6. Venue is proper in the Southeastern Division pursuant to E.D. Mo. L.R. 2.07(A)(3).

Parties

7. Plaintiff, Jordan Klaffer, is a resident of Cape Girardeau, Missouri.

8. Defendant Jerry Bledsoe is a police officer with the Scott County Sheriff's Department. Upon information and belief, Bledsoe is a police officer for the Village of Kelsoe and a resident of Scott County. He is sued in his individual capacity only.

9. Defendant acted under color of state law at all times relevant to this Complaint.

Facts

10. Plaintiff is a gun owner and frequently fires his guns at inanimate objects on private property.

11. On May 1, 2013, Defendant confronted Plaintiff at the private residence of his mother in response to an alleged complaint about noise.

12. Defendant told Plaintiff that he must choose between surrendering his guns or being arrested.

13. Plaintiff refused to surrender his guns and was arrested for disturbing the peace.

14. In Plaintiff's view, Defendant was harassing him for exercising his Second Amendment rights .

15. Plaintiff recorded his interaction with Defendant.

16. Defendant knew Plaintiff was recording the encounter and did not ask Plaintiff to stop.

17. In order to express his view that Defendant was using his position as a police officer to harass Plaintiff for exercising his Second Amendment rights, Plaintiff posted the recordings of the May 1, 2013, encounter on several Internet sites, including YouTube and Facebook.

18. Plaintiff also posted a picture of Defendant on the Internet site Instagram that was a side-by-side with a picture of Saddam Hussein. The caption read "Striking Resemblance."

19. On July 10, 2013, Defendant filed an "Adult Abuse/Stalking Petition for Order of Protection," in the 33rd Judicial Circuit Court, Scott County, Missouri. Defendant named himself as Petitioner and Plaintiff as Respondent. The case was docketed as *Bledsoe v. Klaffer*, No. 13SO-CV01277.

20. Defendant sought an ex parte order of protection restraining Plaintiff from, *inter alia.*, posting videos, pictures, and text data showing his name and picture on the Internet.

21. Defendant did not allege any abuse, harassment, stalking, or other harm other than Plaintiff's posting on the Internet information critical of Plaintiff's actions as a police officer.

22. An ex parte order of protection was issued on July 10, 2013. It ordered Plaintiff to remove all videos, pictures, and text data showing Defendant's name and picture from the Internet and to refrain from posting all such data in the future.

23. After being served with the order of protection, Plaintiff removed all videos, pictures, and text data showing Defendant's name and picture from the Internet and refrained from posting any such data.

24. The order was vacated and the petition dismissed on July 22, 2013.

25. Defendant abandoned pursuit of the order of protection on July 22, 2013.

COUNT I

Violation of Civil Rights - 42 U.S.C. §1983 Prior Restraint - Free Speech Clause

26. Plaintiff incorporates herein by reference the allegations made in each preceding paragraph as if each were set forth here verbatim.

27. Defendant's performance of his duties as a police officer is a matter of public concern.

28. Plaintiff's recordings of his arrest concern Defendant's performance of his duties as a police officer and are protected by the First Amendment.

29. Defendant filed his petition for an order of protection as a police officer.

30. Defendant's request for an order of protection caused the July 10, 2013, order to be entered, and the order would not have been entered if not for Defendant's request.

31. The order of protection was an unconstitutional prior restraint on Plaintiff's speech.

32. The order caused Plaintiff to censor his criticisms of Defendant's performance of his duties as a police officer by removing Plaintiff's expression from the Internet.

33. But for the order, Plaintiff would have continued to express his criticism of Defendant's performance of his duties as a police officer during the period the order against him was in effect.

34. Plaintiff's self-censorship of his constitutionally protected expression was reasonable under the circumstances.

35. Plaintiff was damaged as a result of Defendant's actions.

COUNT II
Supplemental Jurisdiction
Malicious Prosecution

36. Plaintiff incorporates herein by reference the allegations made in each preceding paragraph as if each were set forth here verbatim.

37. Defendant initiated the order of protection proceeding against Plaintiff.

38. Defendant knew there was a lack of probable cause to believe that he would be entitled to an order of protection against Plaintiff, and Defendant did not have a reasonable belief that his claim might be valid.

39. Defendant was motivated by malice in commencing the order of protection proceeding.

40. Defendant intentionally initiated the order of protection proceeding.

41. Defendant initiated the order of protection proceeding without just cause or excuse.

42. Defendant moved for dismissal of his petition with an intent to abandon the action.

43. The order of protection proceeding terminated in favor of Plaintiff.

44. Plaintiff was damaged as a result of the initiation of the order of protection proceeding in that he incurred expenses, including the cost of retaining an attorney, and was chilled from engaging in constitutionally protected expressive conduct during the period the order was in effect and removed expressive content from the Internet.

COUNT III
Supplemental Jurisdiction
Abuse of Process

45. Plaintiff incorporates herein by reference the allegations made in each preceding paragraph as if each were set forth here verbatim.

46. Persons that are neither family nor household members within the meaning of Mo. Rev. Stat. § 455.010(7) can only seek an order of protection based upon an allegation of stalking.

47. Plaintiff and Defendant are neither family nor household members within the meaning of Mo. Rev. Stat. § 455.010(7).

48. Plaintiff did not stalk Defendant.

49. Defendant used the order of protection proceeding to accomplish the censorship of Plaintiff's criticism of Defendant's actions as a police officer.

50. Defendant could not have lawfully accomplished the censorship of Plaintiff's constitutionally protected criticism of Defendant's action as a police officer.

51. Plaintiff was damaged as a result of Defendant's use of the order protection proceedings in that he was chilled from engaging in constitutionally protected expressive conduct during the period the order was in effect and removed expressive content from the Internet.

WHEREFORE, Plaintiff prays this Court:

- A. Enter a declaration that Defendant's actions of initiating an order of protection proceeding against Plaintiff and securing an order requiring Plaintiff to remove constitutionally protected expression from the Internet and refrain for posting it in the future violated the Constitution;
- B. Award Plaintiff compensatory for the violation of his constitutional rights under the color of state law as well as on his state-law claims for malicious prosecution and abuse of process;
- C. Award Plaintiff's costs, including reasonable attorneys' fees, under 42 U.S.C. § 1988 and any other relevant provisions of law; and
- D. Allow such other and further relief as the Court deems just and equitable.

Respectfully submitted,

/s/ Anthony E. Rothert
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