

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

TINA WARREN, and)
)
BRYAN JEFFERS,)
)
Plaintiffs,)
)
v.)
)
CITY OF PIEDMONT, MISSOURI,)
)
WILLIAM “BILL” KIRKPATRICK,)
in his individual capacity,)
)
RICHARD SANDERS, in his)
individual capacity,)
)
DEAN FINCH,)
in his individual capacity, and)
)
CORY THOMPSON, in his)
individual capacity,)
)
Defendants.)

Case No. 1:15-cv-170

JURY TRIAL DEMANDED

COMPLAINT

Introduction

1. In this civil rights action, brought pursuant to 42 U.S.C. § 1983, Plaintiffs Tina Warren and Bryan Jeffers seek judgment against Piedmont Mayor William “Bill” Kirkpatrick, Piedmont Chief of Police Richard Sanders, Wayne County Sheriff Dean Finch, and the City of Piedmont for First Amendment retaliation; judgment against Police Officer Cory Thompson for violation of Plaintiff Warren’s rights under the First and Fourth Amendments; judgment against the City of Piedmont

for failure to supervise and train Thompson; an award of damages; and reasonable attorneys' fees.

2. After criticizing Mayor Bill Kirkpatrick and calling for an audit of the City of Piedmont, Plaintiffs have been subjected to a campaign of harassment by government officials, including Chief Sanders, Wayne County Sheriff Finch, Officer Thompson, and other Piedmont city employees, that have included Plaintiff Warren's detainment on the auspices of a traffic violation, the removal of the city water meter from Plaintiffs' shared residence, and a retaliatory search of Plaintiffs' property. Plaintiff Warren's detainment on the auspices of a traffic violation, the removal of the city water meter from Plaintiffs' home, and a retaliatory search thereof were all effectuated based on the City of Piedmont's policy, furthered in part by Wayne County Sheriff Finch as well as city officials and employees, of arresting individuals who exercise their First Amendment rights by raising their middle finger in public, particularly those who direct this gesture at public officials. Defendants' harassment of Plaintiffs has violated their constitutional rights.

Jurisdiction and Venue

3. This action arises under the Constitution of the United States and the provisions of 42 U.S.C. § 1983.
4. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331 and 1343.

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

Parties

7. Plaintiff Tina Warren is a resident of Piedmont, Missouri.
8. Plaintiff Bryan Jeffers is a resident of Piedmont, Missouri.
9. Plaintiff Warren is the mother of Plaintiff Jeffers. Plaintiffs share a residence.
10. Defendant Bill Kirkpatrick is the mayor of the City of Piedmont, Missouri. He is sued in his individual capacity only.
11. Defendant Richard Sanders is the chief of police of the City of Piedmont, Missouri. He is sued in his individual capacity only.
12. Defendant Dean Finch is the Sheriff of Wayne County, Missouri. He is sued in his individual capacity only.
13. Defendant Cory Thompson is a police officer for the City of Piedmont, Missouri. He is sued in his individual capacity only.
14. Defendant City of Piedmont is a municipal corporation duly organized under the laws of the State of Missouri.
15. Defendants acted under color of state law at all times relevant to this Complaint.

Facts

16. The campaign of harassment waged by Defendants against Plaintiffs stems from an incident between Warren and Kirkpatrick that occurred on or about April 30, 2014.
17. On or about April 30, 2014, Warren was at her home, which she shares with her son Jeffers, waiting for the water main on her street to be repaired.
18. While the water main was being repaired, there was no water supply to Plaintiffs' home.
19. While the water main was being repaired, Plaintiffs had had no running water at their home for a total of six days.
20. Warren had called the City of Piedmont each day of the outage to inquire about when Plaintiffs' water supply would be restored.
21. On or about April 30, 2014, Warren noticed that a group of men working on the water main on the same street as her house.
22. Warren drove down to the end of the street to ask the men when they would be done working on Plaintiffs' water main and when they could expect to have their water restored.
23. As Warren neared the men, she noticed that one of them was Bill Kirkpatrick, the Mayor of Piedmont.
24. Warren parked her car and began to exit her vehicle, so she could speak with the men who were working on the water main.

25. As soon as Warren attempted to exit her vehicle, Kirkpatrick told her to “get back in her car” and “go down the fucking road.” Kirkpatrick continued on with an expletive-laden tirade towards Warren, essentially telling Warren to mind her own business.
26. After Kirkpatrick’s verbal tirade, Warren got back into her car and drove home.
27. As soon as Warren reached her home, she received a call from Sheriff Dean Finch, who also told her to mind her own business and leave the men working on the water main alone.
28. After this unpleasant encounter with Kirkpatrick, Warren decided that, as an act of protest toward Kirkpatrick, the Mayor of Piedmont, she would extend her middle finger and “flip off” the mayor any time that she encountered him.
29. In addition to protesting the mayor through expressive activity, Warren started petitioning for an audit of the City of Piedmont because, after encountering Kirkpatrick working on her water main, she started receiving city water bills that were markedly higher than her previous water bills.
30. On or about October 1, 2014, Warren was walking down the public sidewalk of Main Street, collecting signatures for her petition calling for an audit of the City of Piedmont.
31. While Warren was seeking signatures from other residents of Piedmont on a public sidewalk, Piedmont Police Officer Donnie Townsend approached her.
32. Townsend informed Warren that Kirkpatrick called him and told him to go speak with Warren.

33. Townsend handed Warren a piece of paper with a City of Piedmont city ordinance stating that it was a crime to block the sidewalk.
34. After providing her with the ordinance, Townsend ended the encounter with Warren and left the area.
35. Warren continued to seek signatures on the public sidewalk from other Piedmont residents.
36. A few hours later, Townsend again approached Warren and told her that she could not block the public sidewalk.
37. Townsend again indicated that he was told by Kirkpatrick to come and inform Warren of the ordinance preventing an individual from blocking the sidewalk.
38. Warren was a single individual seeking signatures on a public sidewalk. Warren was never blocking the sidewalk in a manner that prevented other pedestrians from passing.
39. One day in May 2015, Warren was driving with her 11-year-old son to Wal-Mart.
40. Warren spotted Kirkpatrick on Main Street and proceeded to gesture towards him using her extended middle finger, as a part of her continued protest against him and his actions as Mayor of Piedmont.
41. Warren continued driving to Wal-Mart.
42. When Warren was returning home from Wal-Mart, she was pulled over by Thompson on Main Street.

43. Thompson was waiting for Warren in order to pull her over. Thompson told Warren that Kirkpatrick called Thompson because of the gesture Plaintiff Warren had directed at him.
44. Warren asked Thompson why she had been pulled over. Officer Thompson told her that she had been pulled over for “flipping people off.”
45. Thompson took Warren’s driver’s license, registration, and insurance information.
46. Thompson went back to his vehicle and wrote Warren a ticket for having an expired driver’s license.
47. When Thompson returned to Warren’s car, Warren asked him why she had not received a ticket for Thompson’s stated reason for pulling her over (“flipping people off”).
48. Thompson told Warren that he could “not give her a ticket for that.”
49. Warren appeared in court on June 10, 2015, for the citation she received from Thompson in May 2015.
50. Warren presented a valid driver’s license at the hearing and all charges were dismissed.
51. On or about July 7, 2015, officials from the City of Piedmont came to Plaintiffs’ house and removed their water meter without explanation or warning.
52. At the time city officials removed Plaintiffs’ water meter, Plaintiffs were on a payment plan for paying their water bill. Jeffers, who pays the water bill and owns the house wherein he and Warren reside, was current on all payments under the payment plan.

53. That same day, Plaintiffs went to Piedmont City Hall to inquire about their missing water meter.
54. Jeffers filmed the visit to City Hall.
55. After Warren inquired as to why city employees removed Plaintiffs' water meter, the city employees informed Warren that they had removed the water meter "because you flipped us off."
56. After Plaintiffs had been speaking with the city workers for a few minutes, Sanders and Thompson entered the room.
57. When Warren asked Thompson why he had pulled her over in May 2015, he stated again that it was because she had been flipping people off.
58. While discussing the removal of Plaintiffs' water meter, Warren repeated the expletives that Kirkpatrick had previously directed towards her, so as to explain her reasons for engaging in the expressive protest of flipping off Kirkpatrick every time she encountered him.
59. After Warren used these expletives as a way of relaying what had previously occurred, Sanders informed her that cursing is not allowed and that city ordinances outlaw flipping someone off.
60. Warren informed Sanders that ordinances outlawing cursing or flipping people off had been overturned in federal courts. Sanders replied by inviting Plaintiffs to challenge the ordinance in court. Sanders stated that he believed the ordinance would be upheld.

61. The City of Piedmont does not have an ordinance outlawing cursing, the use of profanity, or expressive content that might be considered vulgar.
62. At the end of the encounter at city hall, Thompson told the city employees to reinstall the water meter because Jeffers was current on payments.
63. A video of the interaction on or about July 7, 2015 at city hall, is attached to this complaint and incorporate herein.¹
64. On or about September 2, 2015, Warren was driving her son's 2005 Chevrolet Suburban in Piedmont and passed Kirkpatrick. She extended her middle finger toward him as part of her ongoing protest of his actions as mayor.
65. Less than four hours later, Finch, two uniformed officers from the Wayne County Sheriff's Office, and a plainclothes narcotics officer from Missouri State Highway Patrol Troop E out of Poplar Bluff, arrived at Plaintiffs' home.
66. Warren answered the door.
67. Finch and the other officers did not have a search warrant, but they wanted to search Plaintiffs' residence anyway.
68. Warren was coerced to allow the officers inside her home after Finch threatened to call her employer and child services if she did not.
69. Finch informed Warren that they had received a phone call less than four hours earlier from a person who said he had seen Warren driving a "nice vehicle" that

¹ In accordance with local procedures, the video cannot be filed electronically. It will be filed directly with the Clerk and served upon each defendant with this Complaint.

must have cost more than her wages could afford and she called speculated that she was a drug dealer.

70. Finch and the other officers searched Plaintiffs' home, Warren's camper, and Jeffers's SUV on the pretense that there were drugs. No drugs were found.

COUNT I

42 U.S.C. § 1983 - First Amendment

First Amendment Retaliation

Against Defendants Kirkpatrick, Finch, Sanders, and City of Piedmont

71. Plaintiffs incorporate herein by reference the allegations made in each preceding paragraph as if each were set forth here verbatim.
72. Warren's speech is noncommercial and conducted on a public right-of-way.
73. Warren's speech is protected by the First Amendment.
74. Warren's speech did not violate any law.
75. But for Kirkpatrick, Finch, and Sanders's retaliatory animus regarding Warren's speech, Kirkpatrick and Sanders would not have told Thompson to detain Warren under the premise of a traffic stop.
76. But for Kirkpatrick and Sanders's retaliatory animus regarding Warren's speech, Kirkpatrick and Sanders would not have ordered Plaintiffs' water meter removed from the house owned by Jeffers and at which both Warren and Jeffers reside.
77. But for Kirkpatrick and Finch's retaliatory animus regarding Warren's speech, Kirkpatrick and Finch would not have conducted an improper, retaliatory, and warrantless search of Plaintiffs' residence and vehicles.

78. As Mayor of Piedmont, Kirkpatrick occupies a high policymaking role for the City of Piedmont such that his actions taken under color of law, as described in this Complaint, are deemed the official policy of the City of Piedmont.

WHEREFORE, Plaintiffs pray this Court:

- A. Enter judgment in favor of Plaintiffs and against Defendants Kirkpatrick, Finch, Sanders, and the City of Piedmont;
- B. Award Plaintiffs compensatory damages against Defendants Kirkpatrick, Finch, Sanders, and the City of Piedmont for their violation of Plaintiffs' constitutional rights under color of law;
- C. Award Plaintiffs reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and any other applicable provisions of law; and
- D. Allow such other and further relief as the Court deems just and proper.

COUNT II

42 U.S.C. § 1983

Failure to Supervise and Train

Against Defendant City of Piedmont

79. Plaintiffs incorporate herein by reference the allegations made in each preceding paragraph as if each were set forth here verbatim.
80. Prior to August 30, 2013, the City of Piedmont developed and maintained policies, customs, and practices exhibiting deliberate indifference to the constitutional rights of persons in Piedmont, which caused the violation of Plaintiffs' rights.

81. At all relevant times, the City of Piedmont was aware that Thompson was inadequately trained regarding the First Amendment, yet the City of Piedmont maintained a policy or custom of failing to provide Thompson training on the First Amendment or adequate supervision.
82. It was the policy, custom, or both, of the City of Piedmont to inadequately supervise and train its police officers, including Thompson, thereby failing to prevent the constitutional violations against Plaintiffs.
83. Kirkpatrick and Sanders are policy makers for the City of Piedmont.
84. The City of Piedmont's policies, customs, and practices demonstrate a deliberate indifference to the constitutional rights of persons within the City of Piedmont and caused the violation of Plaintiffs' rights alleged herein.
85. Plaintiffs sustained damages as a result of the City of Piedmont's policies, customs, and practices.

WHEREFORE, Plaintiffs pray this Court:

- A. Enter judgment in favor of Plaintiffs and against Defendant City of Piedmont;
- B. Issue an injunction requiring Defendant City of Piedmont to develop and implement adequate training programs for its police officers about rights under the First, Fourth, and Fourteenth Amendments;
- C. Award Plaintiffs compensatory damages against Defendant City of Piedmont for its violation of Plaintiffs' constitutional rights under color of state law;

D. Award Plaintiffs reasonable attorneys' fees and costs pursuant to 42

U.S.C. § 1988 and any other applicable provisions of law; and

E. Allow such other and further relief as the Court deems just and proper.

COUNT III

42 U.S.C. § 1983 - First Amendment

Plaintiff Warren against Defendant Thompson

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

87. Thompson violated Warren's rights, under the First Amendment, to freedom of speech by detaining Plaintiff for her expressive activity.

88. Making hand gestures, including raising one's middle finger, is a legitimate means of expressing oneself that is protected by the First Amendment.

89. Thompson engaged in these unlawful actions willfully and knowingly, acting with reckless or deliberate indifference to Warren's First Amendment rights.

WHEREFORE, Plaintiff Warren prays this Court:

E. Enter judgment in favor of Plaintiff Warren and against Defendant Thompson;

F. Award Plaintiff Warren compensatory damages against Defendant Thompson for violation of Plaintiff Warren's constitutional rights under color of law;

G. Award Plaintiff Warren reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and any other applicable provisions of law; and

H. Allow such other and further relief as the Court deems just and proper.

COUNT IV

42 U.S.C. § 1983 - Fourth Amendment

Search and Seizure

Plaintiff Warren Against Defendant Thompson

90. Warren incorporates herein by reference the allegations made in each preceding paragraph as if each were set forth here verbatim.
91. Warren has a right under the Fourth Amendment to be free from unreasonable searches and seizures.
92. Thompson violated Warren's clearly established right to be free from unlawful searches and seizures when he detained Warren for a traffic stop without probable cause to believe that Warren had engaged in criminal activity or committed any crime.
93. Thompson engaged in these actions willfully and knowingly, acting with deliberate indifference to Warren's Fourth Amendment rights.

WHEREFORE, Warren prays this Court:

- A. Enter judgment in favor of Plaintiff Warren and against Defendant Thompson;
- B. Award Plaintiff Warren compensatory damages against Defendant Thompson for violation of Plaintiff Warren's constitutional rights under color of law;
- C. Award Plaintiff Warren reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and any other applicable provisions of law; and
- D. Allow such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Anthony E. Rothert

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