

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION**

GARY WAYNE WRIGHT, II)

)

)

)

)

Plaintiff,)

)

v.)

CIVIL CASE NO.

4:22-cv-00615-SGC

)

MARSHALL COUNTY, ALABAMA,)
et.al)

)

)

Defendants.)

)

**ANSWER OF DEFENDANTS MARSHALL COUNTY, ALABAMA, AND
SHERIFF PHIL SIMS, IN HIS OFFICIAL CAPACITY**

Defendants Marshall County, Alabama, and Sheriff Phil Sims, in his official capacity, hereby Answers the claims asserted against them in Counts 1, 2, and 3 related to the constitutional validity of the Resolution under the First Amendment Plaintiff’s Complaint, as follows:

Pursuant to Federal Rule of Civil Procedure 8(b)(3), Marshall County, Alabama, and Sheriff Phil Sims, in his official capacity, generally denies all allegations in the Complaint except as to the specific allegations admitted as follows:

JURISDICTION AND VENUE

17. These Defendants admit that this Court has federal jurisdiction over the claims asserted against them in Counts 1, 2, and 3 related to the constitutional validity of the Resolution under the First Amendment.

18. These Defendants admit that this Court may hear and decide claims brought pursuant to 42 U.S.C. § 1983 asserted against them in Counts 1, 2, and 3 related to the constitutional validity of the Resolution under the First Amendment.

20. Admit.

FACTUAL BASIS OF CLAIMS

These Defendants do not have sufficient knowledge or information to form a belief as to the truth of the averments in Paragraphs 21-31.

34. These Defendants admit that the attached content-neutral Resolution restricting and regulating certain picketing activities in and around the Guntersville and Albertville Courthouses was duly passed by the Marshall County Commission.

PRELIMINARY COMPLIANCE

These Defendants admit that Wright submitted the attached “Writ to Cure” to the Marshall County Commission; that Wright met with Chairman Hutcheson; and that Wright gave a speech to the Commission. Exhaustion of administrative remedies is not necessary prior to Wright bringing claims for a violation of the First Amendment pursuant to 42 U.S.C. § 1983. To the extent that Wright may be alleging that these

actions would constitute compliance with the Notice of Claims statute under Alabama law, Defendants deny any such allegation.

ENUMERATED AND AFFIRMATIVE DEFENSES

1. As stated in the Motion to Dismiss and Brief, portions of the Complaint are due to be dismissed pursuant to Rule 12 of the Federal Rules of Civil Procedure.
2. Punitive Damages may not be assessed against Sheriff Sims in his official capacity.
3. Plaintiff is not entitled to an award of any “fees.”
4. The requested injunctive relief is beyond the scope of this Court’s jurisdiction.

Respectfully submitted this the 2nd day of September, 2022.

s/Jamie H. Kidd Frawley

JAMIE H. KIDD FRAWLEY (ASB-7661-M76H)

Attorney for Defendants

WEBB, MCNEILL, & WALKER, P.C.

P.O. Box 238

Montgomery, AL 36101-0238

(334) 262-1850 - T

(334) 262-1772 - F

jfrawley@wmwfirm.com

CERTIFICATE OF SERVICE

I hereby certify that on this the 2nd day of September, 2022, I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will provide a copy to the following:

Gary Wayne Wright II (*pro se*)
103 Mayberry Lane
Arab, AL 35016

s/Jamie H. Kidd Frawley
OF COUNSEL