

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

GARY WAYNE WRIGHT, II)

Plaintiff,)

v.)

MARSHALL COUNTY, ALABAMA,)

et.al)

Defendants.)

**CIVIL CASE NO.
4:22-cv-00615-SGC**

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

Defendants Marshall County, Alabama, and Sheriff Phil Sims, in his official capacity, hereby file this Answer to Plaintiff's Amended Complaint, as follows:

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

PARTIES

1. Admit.
2. Admit.
3. Admit.

JURISDICTION AND VENUE

11. 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 Resolutions under the First Amendment. All other averments in this paragraph are denied.

12. 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 Resolutions under the First Amendment. All other averments in this paragraph are denied.

13. 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 14-19.

Response to ¶¶ 28 and 36: These Defendants admit that the content-neutral Resolution restricting and regulating certain picketing activities in and around the Guntersville and Albertville Courthouses attached as Exhibit B and that the content-neutral Resolution attached as Exhibit D were duly passed by the Marshall County Commission. All other averments in these paragraphs are denied.

PRESUIT COMPLIANCE

46. Admit.

47. These Defendants admit that Wright submitted the attached “Writ to Cure” to the Marshall County Commission. All other averments in this paragraph are denied.

48. These Defendants admit that Wright was not able to speak on April 13, 2022. All other averments in this paragraph are denied.

49. These Defendants are without sufficient knowledge and information to form a truth as to the belief of this averment.

50. These Defendants admit that Wright met with Chairman Hutcheson. All other averments in this paragraph are denied.

51. Admit.

52. These Defendants admit that Wright spoke in front of the Commission. All other averments in this paragraph are denied.

53. 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. All other averments are denied.

ENUMERATED AND AFFIRMATIVE DEFENSES

1. As stated in the contemporaneously filed Motion to Strike, the Amended Complaint is due to be stricken.
2. Sheriff Sims, in his official capacity, is entitled to absolute immunity from any claim for damages.
3. Punitive damages are not available in this action.
4. Plaintiff is not entitled to an award of any “fees.”
5. The requested injunctive relief is beyond the scope of this Court’s jurisdiction.

Respectfully submitted this the 29th day of September, 2023.

s/Jamie H. Kidd Frawley

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

Attorney for Defendants

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CERTIFICATE OF SERVICE

I hereby certify that on this the 29th day of September, 2023, I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and have provided a copy via United States Mail, First Class, Postage Pre-Paid, which will provide a copy to the following:

Gary Wayne Wright II (*pro se*)
3496 Wellington Road
Montgomery, AL 36106-2354

s/Jamie H. Kidd Frawley
OF COUNSEL