

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

FILED

2024 MAR 14 A 11: 56

GARY WAYNE WRIGHT, II )  
 )  
Plaintiff )  
 )  
v. )  
 )  
MARSHALL COUNTY, ALABAMA, et al. )  
 )  
Defendants )

U.S. DISTRICT COURT  
N.D. OF ALABAMA

Civil Case: 4:22-CV-615-RDP

Claim of Unconstitutionality

**PLAINTIFF'S RESPONSE TO MOTION FOR SUMMARY JUDGMENT**

COMES NOW the pro se Plaintiff, Gary Wayne Wright II ("Wright") proceeding in forma pauperis, and against the Defendants, Marshall County, Alabama ("Marshall County"), their employees, agents, and successors in office, and in support therefor states as follows:

The counsel for the Defendants has done an excellent job making sense of the Plaintiff's filings, but they did portray a few points inaccurately in their Motion for Summary Judgment that need to be corrected for the record.

**POINTS OF CONTENTION**

1. The First Amendment is a fundamental right that must be protected, and the two Marshall County Picketing Resolutions infringe all over that right by needlessly setting hurdles that the County Commission has created in response to what was initially a policing failure. It is the responsibility of the police to facilitate the exercise of free speech, to keep the opposing sides separated, and to arrest those who resort to violence. The Plaintiff was not a participant in the protest that allegedly turned violent or aware of a break-in at the animal shelter, and doesn't have any specific knowledge of the incidents other than through these filings by the Defendant.

2. The Defendant is correct that the Plaintiff refuses to engage in the permit process as a matter of principle, but they are in error when they state the Plaintiff "... *apparently even refraining from knowingly participating in protests that were permitted.*" The Plaintiff has participated in several protests in Montgomery since the filing of this case, and the Plaintiff has even participated in Albertville and Guntersville protests that were covered by a permit obtained by the event organizer of the protest. Those permits were presented by the Defendants during discovery.

3. The photos produced by the Plaintiff were from an Albertville Confederate monument removal protest, and the video produced was of a "*Justice for Travis Banks*" protest in Guntersville. The family of Travis Banks settled with the City of Guntersville, and as the Defendant noted in their Brief the fight for confederate monument removal has now moved to Montgomery. There were no incidents or tension in the protests the Plaintiff participated in because there was no police presence at those events (private security was hired). This Court should take notice that every facility that was successfully, safely, and peacefully marched on in the video were then specifically listed on the second Resolution, as it was targeting political speech with surgical precision.

4. The evidence that was produced through discovery, and that was presented in support of the Defendant's motion, actually proves how utterly useless the entire permitting process has been. It has achieved nothing but to chill constitutionally-protected activities and effectively threaten to criminalize those not in compliance with the resolutions with a punishment. None of the permits that were granted should have even been required, and many were incompletely filled out which defeats their stated purpose.

5. Putting a limit on the number of permits to be granted is constitutionally unacceptable because there can be no lifetime limit to be placed on utilizing our rights. Under these two Resolutions, all Marshall County has to do is wait out any voices of dissent and they think the problems will go away. They are wrong, and our own civil rights history tells us so.

6. The Plaintiff maintains that the Guntersville courthouse complex is a mixed forum, as there is a public restaurant, an atrium where the public frequently meets (there's even a "Commissioner's Table" where people meet with the County Commissioner), other government offices, and numerous other public offices in addition to the courtrooms. If these Resolutions remain in place it would be impossible to protest within sight and sound of the public restaurant, protest the state Veterans Affairs Office, or seek accountability from any other county facility.

7. The limited space available is actually a rationale for preserving these spaces as a public square as much as possible, because as shown by the map there is no other place to safely protest. By closing off the county properties in such a manner through security fencing and restrictive permitting policies, there is no longer a public square to exercise the First Amendment or redress the government for grievances.

8. The Plaintiff is not opposed to public monuments as stated, but rather much like the Separation of Church and State, the Plaintiff believes since it isn't practical to represent all sides equally in the limited space available that none should be displayed. If there were just a generic monument to our war dead and to all those who served our country, there would be no controversy. But as stated in their Motion, only a few of the endless never-ending wars are represented by the courthouse monuments and they happen to be the most controversial (Civil War and Vietnam) in our history. As long as that controversy exists, there will be people wanting to protest both sides and it is the duty of the government to accommodate those protests,

especially of a self-created controversy. These Resolutions are egregious and must be stricken down by this Court and seen as the government overreach it truly is.

9. The First Amendment to the United States Constitution states, "*Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.*" If the Article I branch of our federal government (Congress) is denied the authority to pass restrictive laws on the First Amendment rights, then our state, county, or local governments certainly aren't allowed to infringe these rights.

10. The Plaintiff urges the Court to weigh the burden and harms done to the exercise of rights versus the potential stated benefit of these two Resolutions. They deny protesters the opportunity to be near the sight and sound of controversy, as well as prevents counterprotesters from peacefully demonstrating. These Resolutions are an anathema to democracy and must not stand.

Respectfully submitted this 12<sup>th</sup> day of March, 2024.



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