

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION**

ANTHONY PETERS,]
]
 Plaintiff,]
]
 Vs]
]
 DONALD R. CALDWELL,]
 PHIL SUMMERS,DAN BILBREY,]
 RICHARD ROE, and JOHN DOE]
 Defendants.]

CIVIL CASE NUMBER:

4:12-cv-149-HLM

COMPLAINT FOR DAMAGES

COMES NOW, Plaintiff, Anthony Peters and files this, his Complaint would for damages under 42 U.S.C. Section 1983 for violation of his Civil Rights, as protected by the United States Constitution, at the hands of the Defendants who were acting under the Color of State Law, and for damages caused by the conspiracy to interfere with Plaintiff’s Civil Rights.

1.

This is a civil action brought under 42 U.S.C. § 1983 and 42 U.S.C. § 1985, seeking damages against Defendants’ for committing acts under the Color of State Law which deprived the Plaintiff, Anthony Peters, of his rights and privileges and immunities secured under the Constitution and laws of the United States and 42 USC § 1985; for conspiring for the purpose of impeding and hindering the due

course of justice with the intent to deny Plaintiff, Anthony Peters, his First Amendment right to freedom of speech; for refusing or neglecting to prevent such deprivations and denials to Plaintiff, Anthony Peters. Due process of law rights secured by the Fourteenth Amendment to the Constitution of the United States; and for violations of his privileges and immunities secured by the Fourteenth Amendment of the United States Constitution and for Declaratory and Injunctive Relief and for damages for violation of the Constitution and laws of the United States. Plaintiff seeks a declaration that the actions of Defendants, while acting under Color of State Law, the Defendants proceeded without due process under the Fourteenth Amendment to the Constitution of the United States and the right to be free from arbitrary and unreasonable arrest and seizure.

2.

JURISDICTION

This Court has jurisdiction of this action under 42 U.S.C. § 1983, 28 U.S.C. 1331 and arises under the First and Fourteenth Amendment to the United States Constitution.

3.

At all times material hereto the Defendants were acting under color of Georgia State Laws, Statutes, ordinances, Regulations, Customs, and Usages,

during all ties pertinent hereto under this litigation. The Plaintiff sues the Defendants individually.

4.

Venue is proper in this Court pursuant to 28 U.S.C. 1391(b) in that the events and omissions giving rise to the claim occurred in the Northern District of Georgia, Rome Division. Further, Plaintiff and Defendants reside in the State of Georgia, Northern District.

5.

PARTIES

The Plaintiff is an individual who is a citizen and a resident of the State of Georgia and the United States of America, Plaintiff is presently a resident of Northern District of Georgia.

6.

Plaintiff was duly appointed Magistrate Judge of the Magistrate Court of Catoosa County. The office of the Catoosa County Magistrate Court is located in the Catoosa County Courthouse where official court business is conducted.

7.

The Defendant Donald R. Caldwell is an individual whose residence is in the Northern District of Georgia, Rome Division. At all times pertinent hereto, He was an elected Chief Magistrate Judge of Catoosa County Georgia, he was acting under color of State Law. He is sued in his individual capacity for malicious unconstitutional and non-judicial acts committed to interfere with the judicial office of Plaintiff. He is subject to the jurisdiction of this Court and hereinafter, referred to as Defendant Caldwell.

8.

The Defendant Phil Summers was at all times pertinent hereto, the elected Sheriff of Catoosa County, Georgia. He is a resident of the Northern District of Georgia, Rome Division. At all times pertinent hereto, he was acting under color of state law. He is sued in his individual capacity for malicious acts committed outside his actual authority. He is subject to the jurisdiction of this Court and hereinafter, called Defendant Summers.

9.

The Defendant Dan Bilbrey is the deputy Sheriff of Catoosa County, Georgia. He is a resident of the Northern District of Georgia, Rome Division. Defendant At all times pertinent hereto, he was acting under color of state law. He

is sued in his individual capacity for acts committed outside his actual authority. He is subject to the jurisdiction of this Court and hereinafter, called Defendant Bilbrey.

10.

The Defendants Richard Roe and John Doe are deputy Sheriffs of Catoosa County, Georgia. They are residents of the Northern District of Georgia, Rome Division. Defendant At all times pertinent hereto, they were acting under color of state law. They are sued in their individual capacity for acts committed outside their actual authority. They are subject to the jurisdiction of this Court and hereinafter, called Defendant Richard Roe and Defendant John Doe.

COUNT 1

FACTS OF THE CASE

11.

On June 16, 2010, the Plaintiff was a duly appointed Magistrate Judge of Catoosa County, Georgia. As such, he was entitled to access to his office located in the Courthouse of Catoosa County and under O.C.G.A. § 15-10-5, he was vested with all powers of his official position under O.C.G.A. § 15-10-1, et seq.

12.

Plaintiff had discussed the possibility of running for the office of elected magistrate judge with the current elected magistrate judge, Defendant Caldwell. Defendant Caldwell confirmed that he did not intend to run because of his health. Plaintiff then announced to the public his intent to run for the elected Magistrate judge position which was currently held by Judge Caldwell. Plaintiff began campaigning for office.

13.

Plaintiff had announced his intent to run for the office of Chief Magistrate judge after the Chief Magistrate Defendant Caldwell had stated on several occasions that he intended not to run for the office. Plaintiff had begun to obtain support from the public. He had started to campaign for this political office. Pursuant to his 1st Amendment right to political speech that is applied to the States under the due process clause of the 14th Amendment of the United States Constitution. The action referred to herein violates the Plaintiff's privilege of freedom of speech. Defendants' actions were to persecute Plaintiff for seeking the Chief Magistrate Office.

14.

When Defendant Caldwell had become aware of Plaintiffs intent to seek the office that he held he became angry and defensive. He planned and conspired with Defendants Summers and Bilbrey to interfere and block Plaintiffs political ambitions. When it became clear to Defendant Caldwell that Plaintiff was within his legal right to seek this elected position while Plaintiff was serving as appointed Magistrate Judge, his scheme turned to using his power as Chief Magistrate to discredit Plaintiff. He realized that his power over Plaintiff's court was limited by statute to assigning cases to him.

15.

On June 16, 2010, Plaintiff was present within the offices of the Magistrate Court in a conference table when the Defendant Chief Magistrate Judge Caldwell demanded that Judge Peter's conduct his duties from 3 :00 o'clock p.m., till 11 :00 p.m. Monday thru Friday effectively. Which order dissolved the plaintiff's office and judicial authority by placing him outside the time which the court was scheduled to have its personnel available on business. Particularly there was no clerk assigned to that time, no constable assigned to that schedule and the courthouse itself is closed during those hours. There are no Courthouse security clearance personnel assigned to that time schedule to man the scanning device

necessary for entry into the Courthouse. Court hearings could not be scheduled for the time assigned to the Plaintiff. The intended effect of the Order of Defendant Caldwell was to strip the Plaintiff of his office. Acting illegally in his administrative capacity, Defendant Caldwell ordered the Plaintiff to leave the Catoosa County Courthouse when Plaintiff was legally required to conduct the business of his court and had committed no crime or disruption of the Court.

16.

Defendant Caldwell then decided to limit Judge Peters Judicial activities by limiting his access to the Court to writing warrants from 3 p.m. till 11p.m. That time block was traditionally managed by the judge who was on call, who would meet with the other applicants for emergency applications for Warrants. Generally, there were only a few of these hearings during a week. The effect of this assignment was to interfere, disqualify, undermine, usurp and remove the Plaintiff from his office and to reduce his service to the public. The Defendants intent was to remove Plaintiff from his office and prevent the public from having contact with Plaintiff.

17.

Plaintiff realized this threat to his office and objected to the plan when he was confronted by Defendant Caldwell with being assigned to this bogus schedule

whose purpose was to interfere, usurp, undermine, disqualify, and remove him from the lawful function of his office. During this meeting an alarm referred to as a panic button was activated and 2 law enforcement officers immediately responded. The Sheriff's office arrested Plaintiff on the Courthouse where the meeting was called by Defendant Caldwell. Plaintiff was surrounded by officers at the ready. This act was a part of the planned conspiracy. Defendants had planted a video cam to record the event.

18.

Under Georgia law (O.C.G.A. § 15-10-24) the judicial qualifications commission is the only authority that can remove a Magistrate Judge from office. However the Defendant and the other co-conspirator defendants acting under color of state law ordered other state officers who were unaware of the conspiracy to aid in the illegal and unauthorized arrest and removal of Plaintiff from the Courthouse. Defendant Caldwell telephoned Superior Court Chief Judge Wood who told Judge Caldwell that the matter should be referred to the Judicial Qualification Council who was the proper authority to remove a judge from office. Defendant Caldwell persisted in having the Plaintiff removed from office and taken in to the jail where he remained 45 minutes and then released. When the Plaintiff was released, Sheriff Summers as part of the conspiracy to interfere with Plaintiffs Magistrate office and his right to run for elected office as Chief Magistrate established a plan where the

Plaintiff was physically blocked from entering the Courthouse after June 16, 2010. The Plaintiff was turned back at the entrance of the Courthouse from that day forward.

19.

This procedure of blocking entrance to the Courthouse and blocking Plaintiff from his office post violated Plaintiffs rights, privileges, and immunities guaranteed by the United States Constitution Amendments 1 and fourteen. Plaintiff attempted to return to his office to conduct the business of his court but was illegally blocked and prevented access to his office as a result of the acts and actions of Defendant Caldwell and the other co-conspirator defendants, in direct violations of the Georgia Law under O.C.G.A. § 5-10-24.

20.

Plaintiff was illegally prevented from conducting his office for almost two years. He has been convicted of no crime and committed no act to justify his arrest. His refusal to leave the courthouse was a non-violent defense of his judicial office.

COUNT II

21.

On or about May 31, 2010 Plaintiff announced that he would run for the office if Chief Magistrate of Catoosa County, Georgia. When he made that

announcement he immediately noticed that he was under surveillance by the Sheriff Department. He saw patrol cars by his apartment several times a day. Detective cars were “staked out: near his apartment. In the past other candidates have been arrested by the Sheriff department as a result of these “investigations”. This was when Plaintiff first became aware of the conspiracy to interfere with his election.

22.

Plaintiff confronted the Sheriff about this stake out but he denied that he intended to arrest Plaintiff. However on June 14, 2010 there was a secret surveillance camera that videotaped the meeting with Defendant Caldwell indicating that the meeting was set up to have Plaintiff arrested. When Plaintiff’s reaction was nonviolent and the video showed Defendant Caldwell as being belligerent and confrontational, this video was “disappeared”.

COUNT III

23.

Defendants Dan Bilbrey, John Doe and Richard Roe were parties to this conspiracy and acted by having officers arrest Plaintiff and participated in the procedure that prevented Plaintiff from taking official post at the Courthouse. As a

superior, he instructed officers under him to continue to reduce access and block his entry to his official post for conducting his office as magistrate judge.

24.

Pursuant to the above described conspiracy the Plaintiff was denied access to his lawful position and office as Magistrate Judge of Catoosa County, Georgia and damaged by being refused access to his judicial office. He was illegally seized, transported and held at the Catoosa County Jail. He was refused access and blocked from the Catoosa County Courthouse, all in violations of the Plaintiff's right to privileges and immunities by the Defendant and his co-conspirators and other confederates who use his office in furtherance of their personal desires. Thereby, damaging Plaintiff in the amount of \$10,000,000 actual damages and \$10,000,000 in punitive damages.

25.

Defendant conspirators arrested Plaintiff without probable cause, thereby, violating Plaintiff Fourth Amendment right to be free from unreasonable seizure.

26.

COUNT IV

PUNITIVE DAMAGES

All of the Defendants acted with callous disregard for Plaintiff's First and Fourteenth Amendment rights when they proceeded without due process to arrest Plaintiff without probable cause or warrant and Plaintiff is entitled Punitive Damages in an amount OF \$10,000,000.

27.

COUNT V

42 U.S.C. 1988 ATTORNEY'S FEES

The Plaintiff is entitled to recover attorney's fees under the Civil Rights Attorney's Fees Act 42 U.S.C. 1988 for bringing and prosecution of this suit, in the amount to be determined at a later time as being reasonable under the rules of this Court.

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

1. \$10,000,000. for general damages for violation of Plaintiff's Civil Rights and intentional infliction of emotional distress and loss of his freedom;
2. \$10,000,000.00 for punitive damages;
3. Cost of this action including attorney's fees;
4. Trial by Jury; and

5. All other relief the Court deems appropriate.

Respectfully submitted,

This 15th day of June, 2012.

s/Jeff Banks

GA State Bar #:005445

s/James A. Satcher, Jr.

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