

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
NORTHERN DIVISION

STEPHEN V. WARREN

PLAINTIFF

Vs.

No. 3:20-cr-00079 Dpm

**FILED**  
U. S. DISTRICT COURT  
EASTERN DISTRICT ARKANSAS

MAR 05 2020

JAMES W. McCORMACK, CLERK  
By: Jane Rooney  
DEP. CLERK

CITY OF EGYPT POLICE CHIEF GERALD GOZA,  
INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY,  
CITY OF EGYPT, ARKANSAS,  
MAYOR JERRY COOK, INDIVIDUALLY AND IN  
HIS OFFICIAL CAPACITY,  
VELVA JOY LINGO CLERK/RECORDER FOR CITY  
OF EGYPT, ARKANSAS, INDIVIDUALLY AND IN HER  
OFFICIAL CAPACITY

DEFENDANTS

This case assigned to District Judge MARSHALL

**COMPLAINT** and to Magistrate Judge Harries

Comes now the Plaintiff, Stephen Warren, by and through his attorneys, Mark Rees and Zachary Morrison, Rees Law Firm, and for his Complaint against the named Defendants, state and allege.

**JURISDICTION AND VENUE**

1. This action arises under title 42 U.S.C. §1983 & 1988, 28 U.S.C. §2201, 2202, and F.R.C.P. 57, for violation of the 1<sup>st</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 8<sup>th</sup>, and 14<sup>th</sup> Amendments to the United States Constitution.

2. Subject matter jurisdiction of this action seeking both equitable and monetary damages, is by reason of title 28 U.S.C. §1331 and 1343. Venue is in the Eastern District of Arkansas by reason of title 28 U.S.C. §1391, as all acts or omissions complained of occurred in the Eastern District of Arkansas. This Court may exercise prudent jurisdiction

over all state law causes of action.

## **PARTIES**

3. Plaintiff, Stephen Warren, is an adult residing in Egypt, Craighead County, Arkansas. At all times relevant to the allegations contained in this complaint, he was a resident of Craighead County, Arkansas, and is a citizen of the United States.

4. Defendant, Chief Gerald Goza (hereafter “Goza”), was the appointed and acting Chief of Police of the City of Egypt, Arkansas. As such, he was the commanding officer for the Police Department of Egypt, Arkansas, and was responsible for maintaining, training, supervision and conduct of himself and the Egypt Police Department. At all relevant times, Goza was acting in such capacity as the agent, servant, and employee of the Defendant City of Egypt, Arkansas. He is sued individually and in his official capacity. He is a resident of Craighead County, Arkansas.

5. Defendant, City Recorder/Clerk for Egypt, Arkansas, Velva Joy Lingo, (hereafter “Lingo”) was employed to perform duties in the town of Egypt, Arkansas. She is the agent, servant, and employee of Defendant, City of Egypt, Arkansas. At all relevant times, Lingo was acting in such capacity as the agent, servant, and employee of the Defendant City of Egypt, Arkansas. She is sued individually and in her official capacity. She is a resident of Craighead County, Arkansas.

6. Defendant, Jerry Cook (hereafter “Cook”), is an adult residing in Egypt, Craighead County, Arkansas. At all times relevant hereto he was the Mayor of the City of Egypt, Arkansas, and therefore the responsible person for the City of Egypt. In his

official capacity, he authorized, ratified and approved of the actions complained of herein inasmuch as he was the individual who by operation of law was in charge of the City of Egypt as well as all its departments, including the police department and City Recorder.

7. Defendant, City of Egypt, Arkansas (hereafter “City”), is an incorporated town and municipal corporation within Craighead County, Arkansas, is the employer of Goza and Lingo, and is sued as a person under 42 U.S.C. §1983.

8. Plaintiffs reserve the right to amend this Complaint to add additional Defendants as they may be revealed during discovery.

### **FACTUAL ALLEGATIONS**

9. Plaintiff has been a resident of the City for a period of over 13 years.

10. Previous to the events that began toward the end of summer of 2019, Plaintiff considered Cook and Lingo to be good neighbors and friends, having spent many occasions socializing with one or both of them.

11. These two defendants were well acquainted with the Plaintiff and knew him to be slightly deaf and dyslexic.

12. The Plaintiff was employed by the City as a general laborer, to help maintain the city sewer system, and he operated city equipment and sprayed for mosquitos two to three times per week during the months of mid-June through September of each year.

13. Plaintiff was entrusted with city resources to use unsupervised and had received no complaints on his job performance or on the use of any city financial resource.

14. Plaintiff was required to fill out timesheets and bring them to the City Hall Office to receive his paycheck monthly.

15. The timesheets were filled out in the office or brought to Lingo monthly on a seasonal basis for a period of 3 or more years.

16. Plaintiff always treated Lingo with respect, and she had never expressed any fear of Plaintiff during any of the times they were conducting city business alone in City Hall.

17. During the beginning of the summer and about mid-July 2019, Plaintiff noticed that Goza was pulling over an inordinate amount of people and writing an inordinate amount of tickets for a city with the population of Egypt (100+/-).

18. Plaintiff heard complaints regarding the treatment of both citizens of the City and those passing through the City.

19. The actions of Goza described to Plaintiff by these individuals were violations of the First and Fourth Amendment rights of those being pulled over, searched illegally or ticketed for supposed violations of a "city ordinance" if there was no other evidence of prohibited conduct, such as speeding.

20. There is approximately one mile of road/highway within the City over which Goza and the Assistant Chief of Police exercise jurisdiction and patrol.

21. When Plaintiff began to ask Cook about Goza's qualifications to hold his position, Cook warned the Plaintiff that there would be trouble for both Plaintiff and Plaintiff's friends if he chose to continue to question or press the issue regarding any

information about the City Police Department, or Goza's qualifications.

22. Plaintiff also questioned Cook if he had informed the City Council of Goza's prior involuntary separations from previous law enforcement employment, or his misdemeanor criminal convictions or civil monetary judgments.

23. When it was clear that Plaintiff intended to speak to the City Council regarding Goza's lack of proper credentials and his background, all of the Defendants began to conspire to keep Plaintiff from discovering or presenting proof of any of his complaints to the City Council, or any other person or media outlet, including Plaintiff's small Facebook newsgroup Egypt News Now.

24. Defendants began a campaign against Plaintiff which included harassment, intimidation, attacks on his character, filing false affidavits and making untrue allegations of threatening behavior by Plaintiff, including filing allegations that he was mentally ill, unfairly targeting "City Hall and officials", and that he was armed with guns and a danger to the entire community.

25. There was discussion between Cook and Lingo about having the Plaintiff involuntarily committed in order to keep him from obtaining information from the City.

26. The actions of the Defendants caused the Plaintiff and his family to be in fear for his life, causing unbearable levels of stress and anxiety to Plaintiff, his wife, and their immediate families.

27. Plaintiff was so fearful for his safety because of the actions of the Defendants that he was forced to leave his home for a short while, feeling safer by staying in the

home of a relative in another town.

28. Plaintiff and his family equipped all vehicles driven by Plaintiff with dashboard recording devices to ensure that Plaintiff was never without some sort of recording device while he was outside his home. Plaintiff was so anxious of physical harm or unlawful arrest that he was effectively a prisoner in his own home.

29. Defendants appeared proud of their actions and laughed among themselves about their “accomplishments” and “being famous” by their actions being reported on by a local television station, KAIT8.

30. On Tuesday, August 13, 2019, Plaintiff appeared in person at City Hall, at approximately 9:05 a.m.

31. Plaintiff had driven his personal vehicle and parked in the public parking spaces of the building.

32. Plaintiff was turning in his last timesheet as an employee of the City to the duly designated person, Lingo.

33. Plaintiff was also there to request information under the Arkansas Freedom of Information Act, and to examine the open financial records of the City.

34. Plaintiff entered through the front, public entrance doors, which were unlocked during the operating hours of the City.

35. The door to the “office” was open, as required during operating hours of the City, and during the times that Lingo works in her position as City/Clerk Recorder.

36. Plaintiff greeted Lingo congenially, but Lingo became agitated and told him

that she “had no time to deal with” him.

37. Lingo became dismissive of Plaintiff and became condescending and contemptuous of Plaintiff’s presence in City Hall.

38. At 9:06 a.m., Lingo refused to allow Plaintiff to examine “her” records, and told him he must write down any requests for information, and that she had three days to get him the information.

39. At 9:07 a.m. Plaintiff informed Lingo of the correct procedure under the FOIA, and requested that she call her attorney for advice.

40. Plaintiff then began to set up his computer at one of the tables in the general area outside the enclosed “office” area where Lingo had her desk.

41. At no time did Plaintiff become angry, demanding or threatening. At no time did Lingo ask him to leave City Hall, or show that she was in any way afraid of Plaintiff.

42. Plaintiff video recorded his visit to City Hall, and Lingo advised him that he could not record her, and could not record the interaction of business with City Hall.

43. At 9:15 a.m. Lingo shut the inner door to the office and called 911.

44. Lingo told 911 that she was the City Recorder/Treasurer for the City of Egypt that she was working at City Hall alone, and that there was a “man here making a scene.”

45. Lingo stated in an affidavit filed in another matter regarding this interaction with Plaintiff that she was advised by Davis, the City’s attorney, to take this action against Plaintiff.

46. After making the 911 call, Lingo came back out of the office to talk to

Plaintiff, holding a legal pad in her hand, instructing him to write out his requests.

47. When Plaintiff advised Lingo of his dyslexia disability and asked her for the reasonable accommodation of writing it down for him, she again became contemptuous, telling him to “try his best” to write what he needed.

48. This action caused Plaintiff stress and humiliation in that he knew he could not write what he needed in such a manner as to be understood by Lingo, and she treated him like she would treat a child.

49. Lingo then held up her personal smartphone and began to try to video Plaintiff. When Plaintiff asked if she was trying to video him, she made a contemptuous facial expression and answered that “yes she was” and became angry when Plaintiff advised that she needed to turn her phone so that the camera was facing him.

50. At that time, Lingo’s phone rang, and because the display was facing him Plaintiff could see that Goza was calling her from his personal cell phone. Lingo then walked into the office and shut the door to answer the phone.

51. At 9:36 a.m. two Craighead County deputies arrived at City Hall.

52. Deputy Jerry Roth began to question Plaintiff about his presence at the City Hall office, why he was there, what his problem with the City Council was, and why he wanted the information he was requesting.

53. Plaintiff was seated at the table he had set his computer on and was calmly narrating the video he was taking, detailing the arrival of the Craighead County Sheriff’s Deputies.



54. When Plaintiff told Deputy Roth that he didn't have a problem with the City Council and that he didn't have to give a reason for wanting the information from Defendants he also asked if he was under arrest and/or being interrogated.

55. Deputy Roth answered "not yet".

56. Plaintiff then asserted his 5<sup>th</sup> Amendment rights and advised Deputy Roth that he no longer wanted to engage him in conversation.

57. At 9:38 a.m. Goza arrived at City Hall, and told the deputies that "we have been having problems out of him," referring to Plaintiff.

58. Goza then stated that "the Mayor wants him arrested."

59. Deputy Roth advised Goza to speak with Lingo first, and Goza walked into the closed office where Lingo was located.

60. At 9:40 a.m., Goza exited the office and told Plaintiff to get up and turn around, that he was being arrested.

61. Plaintiff and Deputy Roth expressed surprise at this, and Plaintiff asked what he was being arrested for.

62. Goza responded that he was being arrested for Disorderly Conduct.

63. Goza then arrested Plaintiff and placed Plaintiff in the back of the Egypt Police Car. Goza did not buckle Plaintiff's seat belt.

64. Goza was advised of Plaintiff's shoulder injuries and previous surgery and Plaintiff asked Goza to be careful.

65. Goza grabbed and pulled Plaintiff's arms in such a manner as to cause him

pain and further damages to his prior injuries.

66. Goza did not acknowledge Plaintiff's request and continued to pull Plaintiff's arms behind him in such a manner as to cause him pain.

67. Goza transported Plaintiff to the Craighead County Jail.

68. Goza called a tow truck to impound Plaintiff's vehicle without conducting any inventory search.

69. Goza had the vehicle towed to a lot in Jonesboro, even though the vehicle was parked in a public parking space, during business hours, and was properly tagged, and insured.

70. Plaintiff has a valid driver's license, lived less than two blocks away, and Goza, as well as Lingo, were well acquainted with Plaintiff's wife, including having her personal cell phone number.

71. These actions caused Plaintiff to incur additional costs and embarrassment, as there was no valid reason to remove Plaintiff's vehicle to Jonesboro.

72. Plaintiff had violated no laws nor committed any offense at the time of his arrest.

73. The charge for which Plaintiff was arrested and taken to jail was a misdemeanor, and any conduct warranting such an arrest had not been done in the presence of Goza.

74. Goza stated the Plaintiff was being arrested because the Mayor wanted him arrested, and not because he had witnessed any actions of Plaintiff that would allow for a

warrantless arrest.

75. Plaintiff was taken to Craighead County Jail where he was forced to strip naked and subjected to an invasive and humiliating search, including having to spread his butt cheeks for inspection by a jailer.

76. Plaintiff had to submit to a “mug shot” being taken which was put on the public website of the Sheriff’s office.

77. Plaintiff was detained with several other prisoners in a jail cell.

78. Goza told the Criaghead County Jail Booking officials to “keep him as long as possible, we have a city council meeting tonight and we don’t want him showing up for that.”

79. Plaintiff was not allowed to contact anyone to arrange for his release until 4:45 p.m., and was only allowed to make a collect call. This does not adequately allow a prisoner to make contact with anyone, as most people only have cell phones which cannot accept collect calls without some prior arrangement with their carrier.

80. Plaintiff had never been arrested prior to the arrest that is the subject of this lawsuit.

81. Plaintiff had to make multiple calls to different family members to try to contact someone to bail him out of jail. This caused him additional immense stress and anxiety. He also had to pay a \$205.00 cash bond, appear in court, and make arrangements to have representation for said court date.

82. On August 15, 2019, at approximately 7:20 p.m., Plaintiff decided to get some

exercise after dinner. He was riding his bicycle, as advised by his physicians for physical and mental health, when he stopped into the Egypt Post Office to check his mailbox.

83. Plaintiff parked his bicycle in the bicycle rack provided by the City, located at the corner of the City Hall building, approximately 200 feet from the Post Office. He walked to the post office and obtained his mail. He left the Post office to get back on the bicycle and take the mail back to his home.

84. Goza was on duty and drove by as Plaintiff was leaving the post office and walking toward his bicycle parked in the rack. Goza stopped his patrol car and backed into a position so that he was parked between Plaintiff and the bicycle rack.

85. Plaintiff approached Goza as he sat in the car, talking on his personal cell phone. He called Goza by his name, and Goza opened up his car door.

86. Plaintiff then handed Goza a copy of a statute which details under what circumstances an officer can make a misdemeanor arrest without a warrant. Goza refused to take it and it fluttered down into his lap.

87. Plaintiff then walked toward the back of the police car to get to his bicycle and leave.

88. Goza then exited the police car and stood up, throwing the copy of the statute on the ground, telling Plaintiff that he'd "better pick that up, or I will arrest you for littering."

89. Plaintiff stopped and picked up the paper which was by the back driver side tire of the car.

90. Plaintiff told Goza that he thought the officer was an idiot for not knowing when he could make a misdemeanor arrest without a warrant and continued walking toward his bicycle.

91. Goza followed Plaintiff along the sidewalk and yelled to him that “you’re not fooling anyone, Steve Warren, I know what you did in Florida!” As Plaintiff has only been to Florida twice, as a married adult on vacation with his wife, he had no clue as to what Goza could be referring to.

92. Plaintiff kept walking toward his bicycle. This upset Goza, and he then assaulted Plaintiff, telling him he is going to “respect” him and his authority, and placed him under arrest, giving him the same “disorderly conduct” charge.

93. After cuffing Plaintiff and putting him in the back seat, Plaintiff told Goza that he should know he could not arrest Plaintiff for exercising his 1<sup>st</sup> amendment rights.

94. Goza changed his mind about the arrest of Plaintiff and released Plaintiff from the car and handcuffs.

95. As Plaintiff was walking away again, Goza asked Plaintiff if he was going to keep his mouth shut, or was he going to have to be arrested again.

96. Plaintiff got his bicycle off the rack and began to walk toward his home, when Goza continued to follow him around the corner of the City Hall building, yelling at Plaintiff while holding his mace, pointing it toward him, to “get on that bicycle and pedal away”.

97. Plaintiff told Goza that he was going to walk the bike home as his shoulders

were in pain because of the assault and battery committed upon him by Defendant.

98. Goza became angry at Plaintiff again, saying “that’s it, I’m not taking that disrespect,” and came up behind Plaintiff, grabbing the bicycle, ripping it out of Plaintiffs hands and throwing it on the ground. He then grabbed Plaintiff and told him to place his hands up against the wall of the City Hall building and to spread his legs, that he is being arrested for disorderly conduct for disrespecting Goza.

99. Plaintiff complied with the arrest.

100. Plaintiff was transported again to the Craighead County Jail, again not buckled in despite his repeated requests to be belted into the seat.

101. Goza called Cook, or contacted him in some other way.

102. According to texts and calls provided to Plaintiff under FOIA requests, Cook then texted Lingo and reported “Steve been arrested and taken to jail again” to which she replied “YAHOO!!”.

103. Even though all three of the Defendants know Plaintiffs wife, and have her cell phone number, no one called her about what had happened to her husband.

104. Neither Cook or Goza answered their phones when Plaintiff’s wife called in the next hour to see if they had seen Plaintiff or if he’d been hurt.

105. It took a neighbor helping to locate Plaintiff for his wife to get any answer out of Cook as to Plaintiff’s whereabouts.

106. While there is no affirmative duty for anyone to inform a family member of an arrest, the fact that immediately upon learning of Plaintiff’s arrest, Cook informed

Lingo of said arrest, further proves the Defendants' conspiracy and that they were acting in concert, to violate Plaintiff's rights and to harass and intimidate him.

107. Defendants wanted to keep Plaintiff from questioning or obtaining information regarding the governing of the City.

108. At the time of this second seizure and incarceration, Plaintiff had with him the only set of keys to the vehicle of his wife, as well as the debit card to their bank accounts, leaving no transportation or access to accounts from which to obtain bond money for his release.

109. Plaintiff's wife had to borrow a neighbor's vehicle to pick up her property left on the side of the road by Goza, and for a ride up to the jail to bond out Plaintiff.

110. Even though Plaintiff's wife is an attorney and she identified herself as such at the jail, but she was denied being able to speak with her client, and therefore was unable to get access to money to pay the Plaintiff's bond.

111. Plaintiff was forced, again, to be subjected to the process of "booking" into the Craighead County Jail, being requested to strip naked and be searched, including being told to "spread your butt cheeks" for said search.

112. Because there was no way to get access to the Plaintiff's bank accounts at 10 p.m., and Plaintiff was not allowed to post bond using the debit card in his possession, he was forced to spend the night incarcerated.

113. Plaintiff had violated no laws nor committed any offense for which he could lawfully be stopped, detained, questioned or arrested.

114. When asked by Jail employees why Plaintiff was arrested again, Goza answered “he is going to learn to keep his mouth shut”.

115. As to both charges, arrest and incarceration of Plaintiff, Plaintiff had not committed any violation of the law.

116. After Plaintiff’s bonded release from incarceration, Cook, Lingo and Goza continued their harassment and intimidation of Plaintiff.

117. An Ex-Parte, immediate NO CONTACT order was issued against Plaintiff on September 3, 2019.

118. The No Contact Order prohibited Plaintiff from having guns in his possession, from consuming alcohol, and from coming within 100 yards of Lingo.

119. Plaintiff was thereafter unable to make any lawful FOIA requests, to attend any City Council meetings, and could not obtain any information he had already requested prior to and on August 13, 2019.

120. Plaintiff was denied any enjoyment of the Labor Day Holiday, as this was usually celebrated by time honored “final float” down the Spring River (as said final float usually includes the consumption of alcohol or being around those that are consuming alcohol); kept him from arranging the milestone birthday party for his wife, as he intended to rent out the City Hall Community Center, which has to be arranged through Defendant Lingo; from enjoying an annual Halloween party thrown by his family members; from attending the annual City of Egypt Halloween Festival with his minor niece, as that Festival is organized by an overseen and attended by Defendant Lingo (and



monitored and attended to by Defendant's Cook and Goza); denied him the right to the November Youth Gun hunt with his minor relatives, and from the Modern Gun Hunt in November.

121. Plaintiff was prohibited from riding his bicycle for enjoyment and exercise, as there is no place in the City he could go outside or ride that was not within 100 yards of Lingo's home (two houses from his home) or work, City hall.

122. Plaintiff was not given any opportunity to defend himself against or, even to this day, being given a copy of the allegations leveled against him by Lingo.

123. In addition to this Harassment filing by Lingo, Cook and Lingo also filed affidavits alleging Plaintiff was a disgruntled employee, was harassing them, was mentally ill, and acting irrationally, was "riding his bicycle on city streets playing heavy metal music from his phone"; that he had set up a "shooting lane" in a wooded area from which to attempt to kill Goza, that he was known to be armed with guns and ammunition and was therefore dangerous to the entire City.

124. Cook stated in his affidavit that he was scared of Plaintiff, and that the Plaintiff was "targeting" the City for some (unknown) reason. These were filed on the day the City council meeting was to be held.

125. The allegations are false and Cook and Lingo knew them to be false.

126. Each filing also contained statements by Goza and others that contained similar untrue allegations against Plaintiff.

127. These allegations were filed in a public Circuit Court filing, and can be seen

by any person doing a search of Plaintiff's name.

128. Even though Defendants' Petitions were denied by the Court and dismissed with prejudice, the allegations and statements remain public information, and suggest that Plaintiff is mentally unstable and armed and dangerous.

129. Defendants have also told members of the community that Plaintiff is schizophrenic and dangerous and to keep their distance, and their children, from Plaintiff.

130. Upon information and belief, these actions were done by all Defendants as part of a concerted and planned conspiracy to keep Plaintiff from obtaining and revealing on his FaceBook news channel any information regarding Goza's background, qualifications, and character, as said information would show that Goza is not legally qualified nor morally fit to be involved in law enforcement in general, and not in a position as Chief of Police.

131. Cook and Lingo continue to enjoy the amount of revenue brought in by the Egypt Police Department, and are frightened by any possible investigation into the financial situation of the City as it relates to the inflow of revenue, primarily due to the "vigorous policing" by Goza and his "assistant" Chief(s).

132. Goza knows that he is not qualified to be a certified police officer, as he does not meet the minimum educational, physical or continued certification requirements under the laws of Arkansas, and the requirements of CLEST (Commission on Law Enforcement Standards Training). Goza continued to patrol and act as a police officer after January 7, 2020 when he was directed by CLEST that he was not certified.

133. In an attempt to cover their actions, Defendants have conspired to and charged Plaintiff with two misdemeanor offenses, forced him to retain private counsel, and to prepare to undergo trial in the District Court of Craighead County, Arkansas.

134. After Defendants were sued in a FOIA action and faced being charged with misdemeanor offenses themselves, they began to bargain to dismiss the charges filed against Plaintiff.

135. On December 17, 2019, in conjunction with the Plaintiff's dismissal of claims against Defendants in the Circuit Court FOIA action, Defendants dismissed the charges against Plaintiff in the District Court of Craighead County, Arkansas.

136. As a direct and proximate result of the misconduct described above, Plaintiff has suffered pain, suffering and mental anguish and will in the future experience pain, suffering and mental anguish from the consequences of his injuries.

137. On information and belief, the actions of Goza, Lingo and Cook were consistent with an institutionalized practice of the City Police Department, which was known and ratified by City and Cook. Cook and City have at no time taken any action to prevent the police personnel under their supervision and in their employment from engaging in such misconduct, nor to properly investigate complaints of unfitness for duty and misconduct.

138. The failure to properly train Goza and other officers included the failure to instruct them in applicable provisions of law and the proper and prudent conduct and character of an officer.

139. On information and belief, Defendants authorized and/or tolerated as institutional practices and ratified the misconduct set forth above.

#### **FEDERAL CAUSES OF ACTION**

140. The above described actions and omissions engaged in under color of state authority by Defendants, including the “City”, each sued as a person responsible because of its authorization, condonation, and ratification thereof for the acts of its agents, deprived Plaintiff of rights secured to him by the constitution of the United States, including but not limited to his First Amendment, Fourth Amendment, Fifth Amendment, Eighth Amendment, and Fourteenth Amendment rights.

#### **PENDENT JURISDICTION OF STATE CAUSES OF ACTION**

141. Defendants, and each of them, acted under color of state law, statutes, ordinances, regulations, policies, customs, and usages of the State of Arkansas and the City of Egypt, Arkansas, and intentionally, deliberately, or with deliberate indifference violated the Plaintiffs rights under the Arkansas Civil Rights Act of 1993 and Article 2, §15 of the Constitution of the State of Arkansas.

#### **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT**

142. Lingo did knowingly and willfully violate Plaintiff’s rights under the American’s with Disabilities Act when she refused to accommodate his limitations, including, but not limited to, Plaintiff’s hearing loss and his dyslexia. She refused to offer the requested reasonable accommodations required under the Act. She further filed an affidavit stating that when she refused his requests for reasonable accommodations,

Plaintiff “began mumbling that he was handicapped”.

143. The actions of each of the Defendants herein named were undertaken purposely and in conscious disregard for the rights and safety of Plaintiff and were outrageous and utterly intolerable in a civilized society. Defendants, and each of them, knew or should have known that their actions or omissions would result in injury and damages to the Plaintiff, yet Defendants continued with conscious disregard for the consequences of the same.

### **FIRST AMENDMENT**

144. Plaintiff is guaranteed the right to freedom of speech, a right which cannot be abridged by government actions.

145. Plaintiff had made it clear to Goza, Lingo and Cook that he intended to speak at a City Council meeting about his concerns with the operation of the City and its employees.

146. Goza, Lingo and Cook undertook a series of actions for the primary purpose of silencing Plaintiff, including having him arrested without probable cause twice and seeking and obtaining a protective order against Plaintiff.

147. Goza, Lingo, and Cook acting under color of law, violated Plaintiff’s First Amendment rights.

### **FOURTH AMENDMENT**

148. Plaintiff is guaranteed the right to free from unreasonable searches and seizures.

149. Plaintiff is guaranteed the right to not be arrested except on probable cause.

150. Plaintiff was seized without probable cause by Goza on at least two occasions.

151. Plaintiff was arrested by Goza once for a misdemeanor which Goza did not witness, a violation of Arkansas' Rules of Criminal Procedure, put in place to protect Plaintiff's Fourth Amendment rights.

152. Goza's unlawful seizures of Plaintiff were undertaken as part of Goza's, Lingo's and Cook's scheme to silence Plaintiff.

153. Defendants are acting in concert and separately to deprive Plaintiff of his Fourth Amendment rights.

#### **FIFTH AND FOURTEENTH AMENDMENTS**

154. All persons are guaranteed the right to due process, both procedural and substantive.

155. Goza, Lingo and Cook created a scheme whereby they could silence Plaintiff and limit his rights as a citizen by obtaining an *ex parte* protective order. Plaintiff was given no notice of the application for the protective order and was not afforded the opportunity to appeal.

156. As a result of the entry of the protective order, Plaintiff's substantial rights as a citizen were taken away from him or unreasonably limited, including, but not limited to, the right to move freely within the community, the right to possess a weapon, the right to consume alcohol and the right to peaceably assemble.

157. Defendants violated Plaintiff's due process rights guaranteed by the Fifth and Fourteenth Amendments.

### **EIGHTH AMENDMENT**

158. Plaintiff is guaranteed the rights to be free from the use of excessive force when a police officer is effectuating an arrest and to be free from cruel and unusual treatment.

159. Goza used unreasonable force both times he arrested Plaintiff without probable cause.

160. Goza's arrests of Plaintiff exposed Plaintiff to unreasonable treatment at the jail, including utterly demeaning strip and body cavity searches.

161. Goza knew when he arrested Plaintiff that the jail had policies concerning strip and body cavity searches and that Plaintiff would be required to endure same.

162. Lingo and Cook were a part of the scheme to have Plaintiff arrested and actively encouraged Goza to make the arrests and treat Plaintiff roughly.

163. Defendants acting in concert subjected Plaintiff to violations of his Eighth Amendment rights.

### **ARKANSAS CIVIL RIGHTS ACT**

164. The Arkansas Civil Rights Act (ACRA) prohibits government actors from discriminating against any person with disabilities.

165. ACRA prohibits government actors from purposely denying any citizen their constitutional rights, whether state or federal.

166. Defendants violated Plaintiff's rights under ACRA.

### **DEFAMATION**

167. Goza, Lingo and Cook made knowingly false statements, both orally and in writing, about Plaintiff.

168. Goza, Lingo and Cook published to third parties the above referenced false statements.

169. Plaintiff's reputation in the community was damaged as a result of the false statements published by Goza, Lingo and Cook.

170. Defendants committed the tort of defamation against Plaintiff.

### **ASSAULT AND BATTERY**

171. Goza's physical actions toward Plaintiff during the two arrests were not warranted by any actions of Plaintiff. Plaintiff never resisted arrest and there was certainly no reason Plaintiff needed to be handcuffed and manhandled into the police vehicle.

172. Goza knew Plaintiff had physical infirmities which required some degree in handling Plaintiff, but Goza chose, instead, to use procedures designed to inflict maximum pain on Plaintiff.

173. Goza assaulted and battered Plaintiff.

174. To the extent Goza was carrying out the scheme he, Lingo and Cook were implementing, Lingo and Cook are also responsible for the injuries inflicted upon Plaintiff by virtue of Goza's assaults and batteries upon Plaintiff.



175. The Defendants committed and are responsible for the assaults and batteries on the Plaintiff.

#### **FALSE ARREST/ MALICIOUS PROSECUTION**

176. No probable cause existed, at any time, to arrest the Plaintiff.

177. Goza, Lingo and Cook participated in a scheme which gave no consideration as to whether Plaintiff had violated any Arkansas criminal laws.

178. All of the criminal charges were resolved in Plaintiff's favor.

179. Goza, Lingo and Cook acted with malice toward Plaintiff.

180. Defendants committed the torts of False Arrest and Malicious Prosecution.

#### **ABUSE OF PROCESS**

181. Filing for a protective order and obtaining that protective order, on their face and without regard to the fact the order was issued upon false information provided by Goza, Lingo and Cook, appears to be proper.

182. Even when process appears to be proper, if such process is perverted for an improper purpose, such as punishing Plaintiff and seeking to chill and suppress his First Amendment rights, constitutes the tort of abuse of process.

183. Defendants committed the tort of abuse of process against Plaintiff.

#### **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

184. Goza, Lingo and Cook, undertook the actions complained of herein with the intention of causing Plaintiff as much pain, suffering and mental anguish and grief as possible.

185. Society should not tolerate law enforcement officers and city officials using their official positions to set out to purposely inflict harm on a citizen.

186. As alleged herein Goza's, Lingo's, and Cook's actions caused Plaintiff mental anguish and pain and suffering far in excess of what a normal person should have to endure.

187. Defendants have committed the tort of intentional infliction of emotional distress upon Plaintiff.

### **CITY LIABILITY**

188. A municipality will be held liable for the violation of constitutional rights when it has adopted, condoned or allowed a policy or procedure which results in constitutional right deprivations.

189. A municipality will be held liable for the violation of constitutional rights when it fails take appropriate action to stop its employees from engaging in conduct which violates citizens' constitutional rights, especially when the municipality has knowledge its employees have in the past acted, and continue to act, in a manner which violates citizens' constitutional rights.

190. At all times relevant hereto, Cook was the person with the authority to act on behalf of the City and he set most of the policies and procedures city employees, including Goza and Lingo, were required or allowed to follow. Cook also allowed Goza to maintain his employment with the City despite having knowledge Goza was not qualified for the position he held.

191. The City adopted and/or knowingly allowed Goza, Lingo and Cook to implement policies, procedures and customs relating to law enforcement and interactions with citizens which it knew, or reasonably should have known, would result in the deprivation of citizens' constitutional rights.

192. But for the City's policies, procedures and customs, Plaintiff's constitutional rights would not have been violated.

193. The City is liable for all of the constitutional rights violations undertaken by Goza, Lingo, and Cook.

### **DAMAGES**

194. As the sole and proximate result of the wrongful actions of Defendants, Plaintiff has suffered the deprivation of his constitutional rights, pain, suffering and mental anguish and will continue to suffer same into the foreseeable future. At times, Plaintiff's mental anguish became unbearable, rendering almost unable to function in his daily life.

195. Plaintiff's reputation in the community has been damaged, again resulting in mental anguish in the past and into the foreseeable future.

196. Plaintiff was required to expend funds for bail, attorney's fees and other expenses in connection with his wrongful arrests.

197. The actions of Goza, Lingo, Cook, and the City were undertaken with malice, or in such a manner as to evidence malice.

198. Plaintiff's damages proximately caused by Defendants far exceed the

minimum amount required for diversity of citizenship jurisdiction in this Court.

199. Plaintiff is entitled to recover punitive damages from Defendants in an amount to be determined by the trier of fact in an amount which comports with the Due Process of the United States Constitution.

**ATTORNEY’S FEES**

200. Attorney’s fees are recoverable, as a matter of right, under §1983 and the Arkansas Civil Rights Act.

201. Plaintiff is entitled to an award of reasonable attorney’s fees.

**EQUITABLE RELIEF**

202. Goza, Lingo, Cook, and the City should be enjoined from further engaging in the kinds of action they have taken against Plaintiff.

**DEMAND FOR TRIAL BY JURY**

203. Plaintiff demands trial by jury on all issues.

**PRAYER FOR RELIEF**

WHEREFORE, premises considered, Plaintiff prays for the following relief:

- a. A money judgment against all Defendants, individually and in their official capacity for all of the damages proximately caused by their wrongful conduct, with said judgment being in excess of the minimum amount required for diversity of citizenship jurisdiction in this Court;
- b. An award of punitive damages against all Defendants, individually and in their official capacity in an amount which comports with the

requirements of the Due Process Clause of the United States Constitution;

c. An award of reasonable attorney's fees;

d. Equitable relief in the nature of an injunction against Goza, Lingo, Cook, and the City prohibiting them from engaging in conduct in any way similar to the conduct complained of herein;

e. An award of his costs herein laid out and expended; and

f. Any and all other proper relief to which he may prove himself entitled, either in law or equity.

STEPHEN WARREN

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