

IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS
CIVIL DIVISION

RACHAEL ANDERSON

PLAINTIFF

VS.

CASE NO. 16 JCV-23-2110

RICK ELLIOTT, INDIVIDUALLY, AND
IN HIS OFFICIAL CAPACITY AS POLICE
CHIEF FOR THE CITY OF JONESBORO,
AND HAROLD COPENHAVER, INDIVIDUALLY,
AND IN HIS OFFICE CAPACITY AS MAYOR
FOR THE CITY OF JONESBORO

DEFENDANTS

ORDER GRANTING PLAINTIFF'S MOTION
FOR A PRELIMINARY INJUNCTION

On the 24TH day of January, 2024, this matter came before this court regarding the Plaintiff's *Motion for Preliminary Injunction*. Based on the testimony offered and the exhibits admitted, this court finds, orders, and directs as follows:

1. On December 8, 2023, the Plaintiff filed her *Verified Complaint* against the Defendants, alleging, *inter alia*, that she is entitled to the following: compensatory damages, liquidated damages, punitive damages, an injunction requiring that she be afforded an effective name-clearing hearing, public retraction of negative statements

against her, cleansing of her file, backpay, front pay or reinstatement, a trial by jury, an injunction requiring the Defendants to modify their policies, and for a reasonable attorney's fee and costs.

2. On November 8, 2023, the Plaintiff also filed her *Motion for Preliminary Injunction* in which she requested that the Defendants provide her a name-clearing hearing before the city council with the right to testify and to call and cross-examine witnesses, including Mayor Copenhaver, Police Chief Elliott and Bill Campbell. For an injunction of this nature to be granted, the court is required to consider two criteria. They are: (1) whether irreparable harm will result in the absence of an injunction or restraining order, and (2) whether the moving party has demonstrated a likelihood of success on the merits.

3. In November of 2023, the Plaintiff was a member of the Jonesboro Police Department and worked as the senior analyst for the city's Real-Time Crime Center. She had worked in that position for several years. The City of Jonesboro has been considering a bond issue to pay for several projects in the city. During the Jonesboro City Council meeting in November of 2023, the Plaintiff, while off duty and not in uniform, addressed the city council to express her position regarding the proposed bond issue consideration by the city council as such related to the proposed building of a building to house the city's Dispatch Office and its Real-Time Crime Center.

4. The Jonesboro Police Chief and the Jonesboro Mayor were unaware, at that time, that the Plaintiff intended to speak to the city council. Generally, she spoke not against the issuance of a bond for building purposes, etcetera; she spoke against moving the Real-Time Crime Center to be co-located with the city Dispatch Office. She expressed her opinion that the Real-Time Crime Center should remain co-located with the police

department and the detective's office. The city council meeting was for public debate on the bond issue and not a vote on it.

5. A few days after the city council meeting, the Plaintiff was fired by Police Chief Elliott. The decision to terminate her was made by the Mayor Copenhaver and Chief Elliott. It was a joint decision. The Police Chief drafted a termination letter before the November 14th termination meeting and then presented it to the Plaintiff during the meeting. The letter accused the Plaintiff of violations of the City of Jonesboro Handbook, the Police Department's policies, and the Civilian Code of Conduct, all stemming from her comments made before the city council during its regular meeting. In addition, the termination letter stated that "there have been complaints of your misuse of your take home unit which violated the Police Department policy." Finally, the letter stated that her actions had undermined the trust and confidence the city had in her current position. As a result, the letter stated, she was terminated, effective immediately. The transcript of the termination meeting was admitted into evidence and this court listened to that transcript as well as the transcript of the city council meeting in which the Plaintiff spoke.

6. Mayor Copenhaver testified during the January 24th hearing on the *Motion for Preliminary Injunction* that Chief Elliott decided which provisions of the handbook, policies, and code of conduct the Plaintiff violated. Mayor Copenhaver agreed with the contents of the November 14th termination letter and he supported Chief Elliott's position. Mayor Copenhaver testified that the Plaintiff did not yell, curse, or scream at the city council meeting.

7. Police Chief Elliott testified that the termination letter says there were complaints of department vehicle misuse which constituted a violation of department policy; however,

that was not the reason for the Plaintiff's termination. He testified that both the Mayor Copenhaver and he agreed to terminate the Plaintiff. Chief Elliott testified that he had lost faith, confidence, and trust in the Plaintiff after she testified and that the reason for her termination was the content of the Plaintiff's spoken words. He testified that his hands were tied regarding the termination process.

8. While the misuse of a police unit vehicle was listed as a violation of a department policy in the termination letter, it was not the reason for the termination. According to the Chief Elliott's testimony, the Plaintiff was cleared of the allegation of misuse of the vehicle. He did not amend the termination letter to reflect only the issues of violation of the handbook, the policies, and/or the Code of Ethics. In addition, he never informed the public that the Plaintiff was exonerated of those accusations.

9. Chief Elliott testified that the Plaintiff did not demand a Name-Clearing Hearing. The Plaintiff offered Plaintiff's Exhibit # 12 as her proof that she did request a such a hearing. The contents of that exhibit, which is in an email addressed to the city council members and Mayor Copenhaver, state, "I, Rachel Anderson, call for a Name-Clearing Hearing regarding my recent termination." The Plaintiff did not send a copy of that email to Chief Elliott.

10. Chief Elliott testified that he felt betrayed but that the Plaintiff was not disrespectful at the city council meeting except she did say that Mayor Copenhaver and Chief Elliott did not know what they were talking about. He further testified that when he entered the room with the Plaintiff for her meeting with him, the decision had already been made to terminate her.

11. The Plaintiff then appealed her termination and that appeal was resolved but not in her favor.

12. A Freedom of Information Act request was submitted to the police department. Chief Elliott testified that under the Jonesboro handbook, an employee has the right to object to such a FOIA request. He stated that the Plaintiff was not given that right because at the time of the FOIA request, she was no longer an employee. However, the FOIA request was answered before the Plaintiff's appeal time had expired. The termination letter was released to the KAIT television station and an article about the Plaintiff's terminate was published on November 20, 2023. That publication did not mention the allegations of misuse of a department vehicle but rather only mentioned the violation of the city's handbook and the department's regulations.

13. On November 21, 2023, Chief Elliott released to the public a statement (Defendants' Exhibit #2) regarding the Plaintiff's dismissal. In that release, he stated, in part, the following:

. . . . She knew intentionally that she was undermining the process. . . . So she made a conscious decision that could jeopardize a critical funding stream violated our grievance policy, violating our code of ethics policy, employee conduct policy, as well as sections of the City Employee Handbook, all of which have been approved by City Council. . . . Her statements and actions are considered to be arrogant and insubordinate, and she certainly spoke ill of a project that is being worked on. Therefore, I felt betrayed by her actions. I no long have any faith or confidence in her as an employee that she can and will follow my directions of operations in the Jonesboro Police Department.

14. Plaintiff Anderson testified that she asked Chief Elliott, during the termination meeting, what policies she violated. He first stated they are in the handbook. She stated that Chief Elliott told her he did not want to fire her during the termination meeting.

15. The Plaintiff spoke with Councilman Bryant very soon after the issuance of the termination letter. On November 16, 2023, Councilman Bryant sent an email to the other members of the city council, Mayor Copenhaver, and several of the news and social media outlets. He called for an independent investigation of this set of events.

16. There were several articles written and published by various news and social media outlets over the time frame in question. Most reported on the allegations surrounding her speech at the City Council meeting. One outlet mentioned that she had been exonerated of the allegations of misuse of her department vehicle. None of the articles spoke, or opined, against the Plaintiff, but neither did they speak, or opine, in her favor. Of course, that should not be the purpose of news media articles, except in the "Opinions" section.

17. The Plaintiff testified that she was fired because of the statements she made to the city council and that she spoke as a private citizen regarding a matter of public concern.

18. The Plaintiff testified that her reputation has been harmed because of the various news articles from the newspaper reports, the television reports, and the social media (Facebook) entries. She stated that she has had to answer to inquisitive people who wanted to know what happened by explaining the circumstances of her firing.

19. Plaintiff Anderson testified that she has attempted to find other suitable employment in the area of law enforcement as far away as Batesville, Truman, and

Fayetteville and that she had not received a reasonable job offer because of these news reports and social media remarks. She testified that she has had interviews with different employers in different areas of work but with no success except one. She is waiting on the results of this litigation before she decides to accept that offer. This court is of the opinion, and so finds, that the Plaintiff has proven to this court that irreparable harm will result in the absence of an injunction.

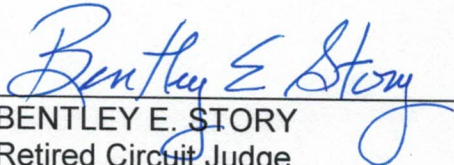
20. The entire body of the evidence presented at the January 24th hearing leads this court to believe that there is a likelihood of success on the merits at trial. This is a likelihood of success and not a guarantee of success. It is this court's opinion that the Plaintiff has satisfied the second test for an injunction, that being the likelihood of success on the merits.

21. The issue at bar is not whether the Real-Time Crime Center should be located one place or the other. The issues are whether the Plaintiff's reputation was tarnished and harmed by the social media, newspaper, and television articles to the extent that she will be irreparably harmed and that there is a likelihood of success on the merits. For purposes of the *Motion for Preliminary Injunction*, the issue is whether the Plaintiff is entitled to a Name-Clearing Hearing before the city council.

22. This court finds that the Plaintiff gave sufficient notice of her demand for a Name-Clearing Hearing even though notice was not sent to Chief Elliott.

23. This court finds that the Plaintiff is entitled to a Name-Clearing Hearing before the entire city council. She will have the right to testify and to call and cross-examine witnesses, including Mayor Copenhaver, Police Chief Elliott and Bill Campbell.

IT IS SO ORDERED THIS 2ND DAY OF FEBRUARY, 2024.


BENTLEY E. STORY
Retired Circuit Judge
By Assignment

Copies emailed to:

1. Ms. Amy Peyton, TCA
2. Mr. Lucien Gillham
3. Mr. Luther Sutter
4. Mr. Chris Stevens
5. Ms. Heather Owens