

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

_____)
DENISE GRIER,)
)
Plaintiff,)
)
)
v.)
)
DEKALB COUNTY, by and)
through Vernon Jones, Chief)
Executive Officer, N. T. MARINELLI)
Chief of Police for the Dekalb)
County Police Department and)
POLICE SGT. R. S. CAVINESS,)
individually and in his official)
capacity as the Arresting Officer,)
Defendants.)
_____)

Civil Action
File No.:

COMPLAINT

1.

This is an action pursuant to 42 U.S.C. § 1983 and state law for violation of First, Fourth and Fourteenth Amendments rights, as well as rights secured by the Georgia Constitution and by state law. Plaintiff also seeks a declaratory judgment.

2.

This Court has jurisdiction under 28 U.S.C. §§ 1343, 1369, 2201 and 2202.

3.

Plaintiff, Denise Grier, is a citizen and resident of Athens, Georgia.

4.

Defendant, DeKalb County, is a county in the state of Georgia. DeKalb County and their agency, the DeKalb County Police Department, may be served by and through Vernon Jones, the Chief Executive Officer, at 1300 Commerce Drive, Decatur, GA 30030.

5.

Defendant, Police Sgt. R. S. Caviness, is an officer of the DeKalb County Police Department and may be served at the DeKalb County Police Department, 3630 Camp Circle, Decatur, GA 30032.

6.

Defendant, N. T. Marinelli, is the Chief of Police for the Dekalb County Police Department and may be served at the DeKalb County Police Department, 3630 Camp Circle, Decatur, GA 30032.

FACTUAL ALLEGATIONS

7.

On March 10, 2006 at 9:30 p.m., Denise Grier and a friend were driving home from dinner in DeKalb County, Georgia.

7.

Ms. Grier's car displayed a bumper sticker which read, "I'm tired of all of the BUSHIT." Her car also displayed other bumper stickers which read, "Duck Fubya," "George W. Bush: making terrorists as fast as he can kill them," and "Hillary 2008."

9.

Police Sgt. R. S. Caviness pulled Ms. Grier over and cited her for a violation of O.C.G.A. § 40-1-4, specifically that the bumper sticker was lewd and profane, despite the fact that the statute was declared unconstitutional by the Supreme Court of Georgia in 1991.

10.

Ms. Grier violated no traffic statute and was charged with no traffic violations.

11.

During her detention by Sgt. Caviness, Ms. Grier was not free to leave.

12.

On information and belief, O.C.G.A. § 40-1-4 was included in Sgt. Caviness's list of citable offenses by the County, despite the statute's unconstitutionality.

13.

Ms. Grier tried to explain that her bumper sticker was a political statement, but Sgt. Caviness maintained that it was lewd.

14.

Ms. Grier's ticket was dismissed three weeks later because the statute was unconstitutional.

15.

The actions of each Defendant are in violation of clearly established law which permits citizens to display bumper stickers such as that of Ms. Grier.

16.

Defendant, N. T. Minialli, is the final decision maker for any policy and procedure relating to the arrest and detention of persons for violations of O.C.G.A. § 40-1-4 despite the statute's unconstitutionality.

17.

DeKalb County has customarily arrested and detained persons for violations of O.C.G.A. § 40-1-4 despite the statute's unconstitutionality.

18.

DeKalb County has failed to instruct, supervise, and control officers regarding the unconstitutionality of arresting persons for violations of O.C.G.A. §

40-1-4.

19.

The actions of both Defendants deprived Plaintiff of her First Amendment right to free speech.

20.

The actions of Sgt. Caviness deprived Plaintiff of her First Amendment right to free speech, as well as her right to free speech under Article 1, § 1, ¶ 5 of the Georgia Constitution.

21.

The actions of both Defendants deprived Plaintiff of her right under the Fourth and Fourteenth Amendments not to be illegally arrested without probable cause.

22.

The actions of Sgt. Caviness deprived Plaintiff of her right under Article 1, § 1, ¶ 1 and Article 1, § 1, ¶ 5 of the Georgia Constitution not to be arrested without probable cause.

23.

The actions of Sgt. Caviness constituted false imprisonment in that he unlawfully detained Plaintiff.

24.

The actions of Sgt. Caviness were taken intentionally to injure Plaintiff.

25.

Plaintiff is entitled to actual and minimal damages against both Defendants under federal law, including emotional distress. Alternatively, she is entitled to presumed damages. Because Sgt. Caviness acted with reckless disregard of Plaintiff's constitutional rights, Plaintiff is entitled to punitive damages.

26.

Plaintiff is entitled to general or nominal damages under state law against Sgt. Caviness. She is also entitled to punitive damages.

27.

Ms. Grier is uncertain and insecure regarding her right to display her bumper sticker in DeKalb County. Ms. Grier seeks a declaration that her bumper sticker is protected speech under the First Amendment of the United States Constitution and Article 1, § 1, ¶ 5 of the Georgia Constitution. A real and actual controversy exists. Ms. Grier has suffered, and continues to suffer, a loss of the rights enunciated herein.

28.

Plaintiff is entitled to reasonable attorney fees under 42 U.S.C. § 1988 and

under state law because of Sgt. Caviness' intentional tortious conduct.

WHEREFORE, Plaintiff prays:

1. That the Court declare that Ms. Grier's bumper sticker is protected by the United States and Georgia Constitutions;
2. That the Court award damages as prayed for above;
3. For jury trial;
4. For attorneys fees, costs and expenses as permitted by law; and
5. For such other and further relief as this Court may deem just and appropriate.

Respectfully submitted,

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