

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

ALYSON RUBIN and
JENNIFER HICKEY,

Plaintiffs,

vs.

CAPTAIN LEWIS YOUNG,
individually and in his official capacity
as Chief of the Capitol Police Division
of the Georgia Department of Public
Safety; OFFICER WICKER and JOHN
DOE, individually and in their official
capacity as Capitol Police Officers,

Defendant.

Civil Action No.: _____

JURY TRIAL DEMANDED

COMPLAINT

1. The First Amendment protects the right to wear expressive clothing, including clothing and buttons with messages on them, as a way of exercising the right to free speech.

2. This case asks whether constituents have the right to wear a specific button in the public areas of the State Capitol Building, the seat of democracy for the State of Georgia. The button in question states, “Don’t Fuck With Us[,] Don’t

Fuck Without Us,” followed by a small logo of a prominent reproductive healthcare provider that provides birth control. The first part of the message expresses strong opposition to abortion restrictions, such as HB 481, a Georgia bill introduced this session that bans abortion after 6 weeks of pregnancy. The second part of the message is meant to be a humorous twist, but also a serious exhortation not to have sexual intercourse without proper birth control or protection, i.e., the services that the organization provides.

3. Plaintiffs respectfully request an immediate court order that allows them to wear these buttons in the public areas of Capitol Square property (as defined by O.C.G.A. § 50-2-28(a)) through the legislative session up until April 2, 2019, which is the last day of session, and beyond.

4. This case is straightforward. Nearly 50 years ago, the Supreme Court held in *Cohen v. California* that Jack Cohen had the First Amendment right to wear a jacket bearing the words, “Fuck the Draft,” in a public courthouse, no matter how offensive the language was to bystanders. 403 U.S. 15 (1971). That seminal case decides the matter here.

Jurisdiction and Venue

5. This is a civil and constitutional rights action arising under 42 U.S.C. § 1983 and the First Amendment to the United States Constitution. This Court has jurisdiction of under 28 U.S.C. §§ 1331 and 1343.

6. Venue in this Court is proper under 28 U.S.C. § 1391 because the events giving rise to Plaintiffs' claims arose in this district and division. Defendant is located within this district and division.

Parties

7. Plaintiff Alyson Rubin is an 18-year old high school student who lives in Fulton County and is adamantly opposed to HB 481, a bill that bans abortions after 6 weeks of pregnancy. She is excited about activism and eagerly wishes to participate in the democratic process. She was in the public areas of the State Capitol Building on March 7, 2019, when she was told by Defendant Officer Wicker to remove the button at issue in this case. She intends to return to the State Capitol Building on April 2, 2019, the last day of session, to plead with lawmakers to reject the bill, and wishes to wear the same button to express her views.

8. Jennifer Hickey is a Gwinnett County resident who is also opposed to HB 481. She was in the public areas of the State Capitol Building on March 7,

2019, when she was told by a Capitol Police officer to remove the button at issue in this case. She intends to continue her efforts to defeat the bill by communicating to lawmakers and their staff, including at any committee hearings on the bill on Capitol Square property (as defined by O.C.G.A. § 50-2-28) which is scheduled on 3:00p.m. on March 14. (Many hearings take place in the Coverdell Legislative Office Building, over which Capitol Police also has jurisdiction.) She desires to wear the button to express her views on Capitol Square property as soon as possible. She does not remember the name of the officer who told her to remove the button, and he is named as Defendant John Doe in this case.

9. Defendant Captain Lewis Young is in charge of the Capitol Police Division of the Georgia Department of Public Safety, whose jurisdiction covers Capitol Square as defined by O.C.G.A. § 50-2-28, *see* O.C.G.A. § 35-2-122, which includes the interiors of the State Capitol Building and the interiors of the Coverdell Legislative Office Building. The Capitol Police Division has the power to arrest and physically remove persons from the Capitol Square grounds when they disobey the orders of Capitol Police officers.

10. Defendant Officer Wicker is a Capitol Police Officer who told Plaintiff Rubin to remove her button.

Factual Allegations

11. On March 7, 2019, Plaintiffs Alyson Rubin and Jennifer Hickey were in the public areas of the State Capitol Building to urge lawmakers to reject HB 481, a bill that bans abortions after 6 weeks of pregnancy. That date was important because it is known as “Crossover Day,” which is the last day of the legislative session where one house can pass a bill in time for the other house to pass it that same year. Bills that are not passed by one house by that date generally will not pass that year.

12. Plaintiffs and other women wore pink buttons that stated, “Don’t Fuck With Us[,] Don’t Fuck Without Us,” followed by the logo of a prominent reproductive healthcare provider.

13. Plaintiff Alyson Rubin was told by Defendant Officer Wicker to remove the button. (The badges only showed last names so their first names are not known at this point.)

14. Plaintiff Jennifer Hickey was also ordered by a Capitol Police officer to remove her button. (She does not remember his name, so he is named as Defendant John Doe).

15. One witness saw Defendant Wicker tell another woman to remove their buttons because she could not wear “curse words” due to “children” being around. The same witness also spoke with another officer, Officer Killingsworth, who explained to the witness that people could not wear anything with “curse words” on them “because children are here.”

16. Plaintiffs removed those buttons following these orders.

17. That night, HB 481 passed the House and is now before the Senate.

18. Based on the above, Capitol Police are enforcing a policy that prohibits people from wearing clothing or buttons with profanity on them on Capitol Square grounds, on the basis that children may be exposed to it.

19. Plaintiffs wish to continue to protest against HB 481, including by wearing the buttons at issue in this case, on Capitol Square property through April 2, 2019, which is the last day of the legislative session. Plaintiff Hickey wishes to wear the button at the next scheduled committee hearing on the bill, at 3:00pm on March 14.

20. Plaintiffs had no reason to believe prior to March 7 that they would be prohibited from wearing these buttons, because there do not appear to be any Georgia statutes, regulations, or governing guidelines that prohibit this act.

21. The Georgia Building Authority, which essentially functions as the landlord of the State Capitol Building, has published “Exhibit and Event Guidelines” found at <https://bit.ly/2IaaNCl>,¹ which governs the interior use of the State Capitol Building. But nothing in the Guidelines prohibits the wearing of buttons with profanity on them.

Cause of Action

22. Defendants have violated Plaintiffs’ First Amendment rights by prohibiting them from wearing a button that states, “Don’t Fuck With Us[,] Don’t Fuck Without Us,” in the public areas of the State Capitol Building.

Prayer for Relief

WHEREFORE, Plaintiff demands the following:

a) An immediate temporary/preliminary or permanent restraining order prohibiting Defendants from preventing people from wearing a button that states, “Don’t Fuck With Us[,] Don’t Fuck Without Us,” in the publicly-accessible areas of Capitol Square grounds (as defined by O.C.G.A. § 50-2-28), to take immediate effect up through April 2, 2018, the last day of the legislative session, and beyond;

¹ The full URL is https://gba.georgia.gov/sites/gba.georgia.gov/files/related_files/document/Capitol%20and%20Grounds%20Exhibit%20and%20Event%20Guidelines.pdf.

- b) A declaratory judgment declaring that any such prohibition is unconstitutional;
- c) That Plaintiffs be awarded nominal, compensatory, and punitive damages, and that there be a jury trial with respect to such relief;
- d) That Plaintiffs be awarded attorneys' fees under 42 U.S.C. § 1988;
- e) That all costs of this action be taxed against Defendants;
- f) That judgment be entered in favor of Plaintiffs and against Defendants;
- g) That the Court award any additional or alternative relief as may be deemed appropriate under the circumstances.

Respectfully submitted,
this 12th of March, 2019

/s/ Sean J. Young_____

Sean J. Young (Ga. Bar No. 790399)
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF GEORGIA, INC.
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CERTIFICATION OF COMPLIANCE

The undersigned, in accordance with L.R. 7.1 and 5.1 hereby certifies that the typefont used herein is 14-Point Times New Roman.

This 12th day of March, 2019

s/ Sean J. Young _____

Sean J. Young
Ga. Bar No. 790399

CERTIFICATE OF SERVICE

I hereby certify that on March 12, 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system. The Complaint will be served on the above-named Defendants.

This 12th day of March, 2019

s/ Sean J. Young

Sean J. Young
Ga. Bar No. 790399