
**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

SUZANNE C. DOLLER,
Plaintiff

v.

TAMMY ADAMS;
JOHN SALVADIA; and
CITY OF HARRISBURG, PA.,
Defendants

: NO.:
:
: JUDGE:
:
: CIVIL ACTION - LAW
:
: JURY TRIAL DEMANDED
:
: (Electronically Filed)

COMPLAINT

AND NOW comes Plaintiff, Suzanne C. Doller, by and through her undersigned counsel, and avers as follows:

JURISDICTION

1. This action is brought pursuant to 42 U.S.C. § 1983.
2. Jurisdiction is founded upon 28 U.S.C. §§ 1331 and 1343 (1), (3), and (4).
3. Venue is proper in this Court, as all parties are located within the Middle District of Pennsylvania and the cause of action arose in the Middle District of Pennsylvania.

PARTIES

4. Plaintiff, Suzanne C. Doller, is an adult individual. Ms. Doller resides in Harrisburg, Pennsylvania, 17015.

5. Defendant, Tammy Adams, is an adult individual, who, during all relevant times, was employed as a police officer by the Harrisburg Bureau of Police. Officer Adams' actions or inactions were taken under the color of state law. She is sued in her individual capacity.

6. Defendant, John Salvadia, is an adult individual, who, during all relevant times, was employed as a police officer by the Harrisburg Bureau of Police. Officer Salvadia's actions or inactions were taken under the color of state law. He is sued in his individual capacity.

7. The City of Harrisburg, Pennsylvania, incorporated as a borough in 1791 and as a city in 1860, owns and operates the Harrisburg Bureau of Police, an agency of the city. The City of Harrisburg has a business address of 10 N. Second Street, Suite 202; Harrisburg, PA 17101-1678. The Harrisburg Bureau of Police has a business address of 123 Walnut Street #217, Harrisburg, PA 17101-1693.

FACTUAL BACKGROUND

8. Hillcrest Women's Medical Center ("Hillcrest") is located at 2709 North Front Street, Harrisburg, PA 17110, a commercially zoned area that is often noisy due to motor vehicle traffic.

9. Hillcrest is a medical clinic where abortions are performed.
10. At various times, individuals gather on public property in front of Hillcrest to protest abortions that occur.
11. Ms. Doller is a religiously motivated Catholic activist who believes that life begins at conception.
12. One of Ms. Doller's religious beliefs is that abortion is a murderous act.
13. As a result of her closely-held religious beliefs, Ms. Doller frequently goes to the public sidewalks outside of Hillcrest to hold signs, talk, and pray, in an attempt to persuade people not to have abortions and to dissuade people from performing abortions.
14. On March 11, 2011, Ms. Doller was exercising her right to freedom of speech guaranteed by the First Amendment to the Constitution by protesting the practices occurring at Hillcrest.
15. At the time, Ms. Doller was protesting on a public sidewalk using a megaphone.
16. The public sidewalk in question was located in a very noisy area adjacent to Front Street.
17. Specifically, cars and trucks on Front Street were traveling within approximately three to ten feet of Ms. Doller while she was protesting.

18. Amelia Giambilis is an Administrator of Hillcrest.

19. Ms. Giambilis saw and heard Ms. Doller protesting and was displeased because she did not agree with Ms. Doller's constitutionally protected message.

20. Ms. Giambilis has admitted that she found Ms. Doller's message to be objectionable.

21. Because she did not agree with Ms. Doller's message, Ms. Giambilis called the police to get Ms. Doller to stop protesting.

22. At the direction of Ms. Giambilis, the Harrisburg Police, including Officer Adams, responded but did not witness Ms. Doller's amplified speech inside the Hillcrest building.

23. The police officers did not measure the decibel level of Ms. Doller's amplified speech or of the motor vehicle traffic.

24. Furthermore, Ms. Doller previously conveyed the same protected speech, with the use of a bullhorn, at Third and Market Streets in the City of Harrisburg, during the weekday lunch hour, in front of police officers, without being arrested.

25. Regardless, Officer Adams arrested Ms. Doller and charged her with disorderly conduct, pursuant to 18 Pa. C.S.A. § 5503(a)(2), for using a megaphone to convey her protected speech.

26. Probable cause, however, did not exist to arrest the Plaintiff for the crime charged or for any other crime.

27. Officer Salvadia observed the incident between Ms. Doller and Officer Adams, had an opportunity to intervene to stop Officer Adams from taking the unlawful actions discussed herein, but failed to do so.

28. On December 22, 2011, Ms. Doller had a hearing concerning her disorderly conduct charge.

29. At the hearing, Officer Adams admitted that Ms. Doller had a First Amendment right to protest.

30. Also, Officer Adams testified that she knew that Ms. Doller was not intending to be disorderly, and that she knew Ms. Doller was using her megaphone to simply proclaim her message.

31. Additionally, Officer Adams admitted at this hearing that she cited Ms. Doller because the police received two complaints about Ms. Doller's protest and that she had been previously warned not to use the bullhorn.

32. Officer Adams also admitted at this hearing that she did not cite Ms. Doller based on the level of noise or on whether or not Ms. Doller intended to be disorderly.

33. On December 22, 2011, Ms. Doller was found not guilty of the criminal charge by The Honorable Bernard L. Coates, Jr., of the Dauphin County Court of Common Pleas.

COUNT I

Plaintiff v. Individual Defendants First Amendment - Violation of Right to Free Speech Pursuant to 42 U.S.C. § 1983

34. Paragraphs 1-33 are stated herein by reference.

35. Plaintiff was engaged in expressive speech in the quintessential public forum—a sidewalk to a public street.

36. Defendants' actions chilled, deterred, punished, and restricted Plaintiff from engaging in expressive speech in this public forum.

37. Plaintiff's right to protest was chilled, deterred, and restricted when Defendants unlawfully interfered with Ms. Doller's lawful sidewalk protest.

38. Plaintiff's right to protest was chilled, deterred, and restricted when Defendants arrested her for disorderly conduct for using a megaphone to convey her protected speech.

39. It was objectively clear that her conduct was not disorderly.

40. Defendant Adams admitted that she cited Ms. Doller because the police received two complaints about Ms. Doller's protest.

41. Defendants' actions were motivated by the viewpoint on Ms. Doller's protected speech.

42. Defendants' actions thus constitute a violation of Plaintiff's rights under the Free Speech Clause of the First Amendment of the Constitution.

43. Officer Salvadia observed the incident between Ms. Doller and Officer Adams, had an opportunity to intervene to stop Officer Adams from taking the unlawful actions discussed herein, but failed to do so.

44. As a direct and proximate result of Defendants' actions, Plaintiff has suffered and will continue to suffer embarrassment, humiliation, emotional distress, physical and psychological harm, pain and suffering, and financial harm, some or all of which may be permanent.

45. Furthermore, as a direct and proximate result of Defendants' actions, Plaintiff has incurred attorneys' fees and other costs.

COUNT II

Plaintiff v. Individual Defendants Fourth Amendment – False Arrest Pursuant to 42 U.S.C. § 1983

46. Paragraphs 1-45 are stated herein by reference.

47. Pursuant to the Fourth Amendment to the United States Constitution, it is clearly established law that an arrest is unlawful when it is not supported by probable cause.

48. Defendant Officer Adams filed a criminal charge of disorderly conduct against the Plaintiff without the requisite probable cause to do so.

49. Defendant Officer Adams' actions did not result from a mistake but rather from a knowing and purposeful decision to arrest Ms. Doller because she did not agree with Ms. Doller's protected message.

50. An objectively reasonable police officer under the same circumstance would have known that their conduct violated clearly established law.

51. Officer Salvadia observed the incident between Ms. Doller and Officer Adams, had an opportunity to intervene to stop Officer Adams from taking the unlawful actions discussed herein, but failed to do so.

52. As a result of being falsely arrested, Plaintiff suffered pain from embarrassment, emotional distress, harassment, and having to defend herself against the charges.

53. Plaintiff has suffered and will continue to suffer embarrassment, humiliation, emotional distress, physical and psychological harm, pain and suffering, and financial harm, some or all of which may be permanent.

54. Furthermore, Plaintiff has incurred attorneys' fees and other costs.

COUNT III

**Plaintiff v. Defendant City of Harrisburg
First, Fourth & Fourteenth Amendment—Municipal Liability
Pursuant to 42 U.S.C. § 1983**

55. Paragraphs 1-54 are stated herein by reference.

56. The City of Harrisburg, Pennsylvania (“City”) owns and operates the Harrisburg Bureau of Police, an agency of the City.

57. The City maintained policies, practices, and customs, which were the moving force that resulted in the Plaintiff’s constitutional rights being violated.

58. Moreover, the City was on notice of a need for further training related to the issues discussed herein but failed to provide the training, which resulted in the Plaintiff’s constitutional rights being violated.

59. It is believed that the City failed to implement a policy, enforce a policy, or train officers on the First Amendment to the U.S. Constitution.

60. It is believed that the City failed to implement a policy of proper safeguards to ensure that innocent people are not threatened with arrest and chilled in their speech in such circumstances.

61. It is believed that the City failed to implement an effective process to ensure that policies of the City and training are followed by police officers.

62. When it has been determined that officers have violated the First Amendment rights of persons, or falsely arrested persons, or when police officers

have been named in repeated citizen complaints, or when the City has settled civil suits related to the First or Fourth Amendment, it is believed that the City has not required police officers to receive corrective or additional training.

63. Plaintiff expects that discovery will reveal that the City did not follow its internal affairs policy and investigate, discipline, or retrain the Defendants for the conduct discussed in this Complaint.

64. If it is ultimately determined that an internal affairs investigation occurred, it is believed that discovery will reveal that the investigation was triggered as a result of the instant litigation (so as to be a defense to the litigation), as opposed to when the City first learned of the incident discussed herein.

65. As a direct and proximate result of the City's policies and practices that caused the Plaintiff's free speech rights to be violated, Plaintiff has suffered and will continue to suffer embarrassment, humiliation, emotional distress, physical and psychological harm, pain and suffering, and financial harm, some or all of which may be permanent.

66. Furthermore, as a direct and proximate result of the City's policies and practices that caused the Plaintiff's free speech rights to be violated, Plaintiff has incurred attorneys' fees and other costs.

WHEREFORE, Plaintiff, Suzanne C. Doller, respectfully requests the following relief:

- A. That the Court provide the Plaintiff with a jury trial;
- B. That judgment be entered in favor of the Plaintiff and against the Defendants;
- C. That the Court declare that the Defendants' actions violated the Plaintiff's constitutional rights;
- D. That the Court enjoin the Defendants from interfering with Plaintiff's constitutionally protected protests;
- E. That the Court award the Plaintiff compensatory damages;
- F. That the Court award the Plaintiff punitive damages (except against the City Defendant);
- G. That the Court award the Plaintiff reasonable attorney's fees and costs and interest; and
- H. That the Court award such other financial or equitable relief as is reasonable and just.

RESPECTFULLY SUBMITTED,

Dated: July 25, 2012

s/Devon M. Jacob

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