

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

GEOFFREY DAVIDIAN,)
Plaintiff) No. _____
)
5.)
)
LEWIS FAYE COOMER, in his)
individual capacity,)
Defendant) JURY TRIAL DEMANDED

Complaint

1. This is a 42 U.S.C. § 1983 action based on the retaliation by the Defendant against the Plaintiff for exercise of his First Amendment rights to freedom of speech and freedom of the press. Mr. Coomer treated Mr. Davidian differently from other newsgatherers in violation of the equal protection clause of the 14th Amendment to the United States Constitution.

2. The Plaintiff, Geoffrey Davidian, who publishes a newspaper about corruption in government, and writes, reports and publishes the web site at www.putnampit.com, which is available in every state and internationally, on the Internet, was at all times a resident of Milwaukee, Wisconsin.

3. The Defendant, Lewis Faye Coomer, is being sued individually, and is a resident of the State of Tennessee.

4. The Defendant was Circuit Court Clerk of Putnam County, Tennessee for 24 years until the voters of Putnam County, Tennessee rejected him in the elections held in 2002. At the times pertinent to this Complaint, however, Mr. Coomer was the duly elected decision making authority for the clerk's office for the Circuit Court, Criminal Court, and General Session Court of Putnam County, Tennessee. Mr. Coomer therefore was acting under color of law at all times pertinent to this complaint.

5. Acting as a citizen of the State of Wisconsin and a member of the press pursuant to the First Amendment to the United States Constitution, the 14th Amendment to the United States Constitution, Article IV, Sec. 2 of the United States Constitution and Article I, Section 8, Clause 3 of the United States Constitution, Plaintiff Geoffrey Davidian on Friday, Oct. 12, 2001, went to Defendant Coomer's office to inspect court records related to a case in which an indictment had been altered. Mr. Davidian's intent was to investigate possible corruption and/or incompetence in Mr. Coomer's office.

6. Defendant Lewis Coomer's staff stated that nobody would be available to allow inspection of the file contents but offered, instead, to allow inspection of docket entries by computer that would show dates and case names but not the documents themselves. While Plaintiff Geoffrey Davidian was across the hall in the Chancery Court Clerk and

Master's office, Plaintiff Davidian saw Mary Jo Denton, a reporter from the Cookeville newspaper named the Herald Citizen, enter Defendant Coomer's office to inspect records.

7. Defendant Lewis Coomer, through his employees, refused to allow Plaintiff Geoffrey Davidian access to records and stated records were open to the public only on Tuesdays and Thursdays, and on other days only with Defendant Coomer's arbitrary and unfettered permission.

8. During a subsequent trip to Putnam County, Tennessee, on Tuesday, February 12, 2002, Plaintiff Geoffrey Davidian again visited Defendant Coomer's office to inspect records and was told Defendant Coomer was not present and the records could only be viewed in his presence. Said procedure is only applied to Plaintiff, Geoffrey Davidian.

9. On April 17, 2002, Plaintiff Geoffrey Davidian telephoned and sent a fax to Defendant Coomer asking that the records be made available for someone to pick up. An employee named Wanda said Defendant Coomer was not in the office, but she would have him return a phone call. Defendant Coomer never responded to the phone call or fax.

10. On May 1, 2002, Plaintiff Geoffrey Davidian telephoned Defendant Coomer's office and was told by Defendant Coomer's employees Wanda and Christy that Defendant Coomer was in court and no one could offer access to public files in his absence. Plaintiff Geoffrey Davidian left a telephone number but Defendant Coomer did not respond.

11. On May 1 and May 2, Plaintiff Geoffrey Davidian attempted to contact Putnam County Attorney Jeffrey Jones to discuss the problem with gaining access to records. Attorney Jones did not respond.

12. The documents sought include an indictment that was altered to add a count not included by the grand jury. The case was brought in the court in which Defendant Coomer is custodian of the records and an employee of Defendant Coomer's office was named as an accusing witness in the case. Furthermore, since Mr. Davidian is the publisher of a well-known web site regarding public officials in Putnam County, Tennessee, he often seeks access to court records so as to gather news pursuant to the First Amendment as interpreted by the United States Supreme Court in Richmond Newspaper v. Virginia, 448 U.S. 555, 100 S.Ct. 2814 (1980).

13. These records sought are not confidential nor privileged but are public records to which any Tennessee citizen has the right to access according to Title 10, Part 7 of the Tennessee Code Annotated. Furthermore, pursuant to the First Amendment and Sixth Amendment of the United States Constitution, Mr. Davidian acting as a member of the press has the same right of access to these records as any other citizen.

14. Putnam County may not deny access to non-Tennessee residents because of their citizenship in contravention of the Privileges and Immunities Clause, Article IV, Sec. 2, of the United States Constitution and the Commerce Clause of the United States Constitution.

15. The Defendant knew or should have known the records are public and willfully refused to disclose the records to the Plaintiff Davidian.

16. The Circuit Court Clerk has a duty to provide access to public records to members of the press, and was aware Plaintiff was acting as the press in his request. 17. The Defendant denied Plaintiff access to records wilfully and continually over the months of October 2001 through May 2002.

18. The Plaintiff, Geoffrey Davidian, has had his agents previously denied public records by Defendant Lewis Coomer.

19. The Defendant maintained a policy and custom of denying and obstructing the Plaintiff as the press, both in newsgathering and in disseminating information to the public, and knowingly violated the First and 14th Amendments to the United States Constitution.

20. Defendant Coomer willfully and maliciously retaliated against the Plaintiff by denying him access to the public information over which the Defendant had control because the Plaintiff had written stories highly critical of Lewis Coomer for lacking integrity, being dishonest, and showing favoritism in the exercise of his office.

21. Among the stories published in *The Putnam Pit* by Plaintiff about Lewis Coomer for which the Defendant sought to retaliate against the Plaintiff are stories about the following:

- a. Lewis Coomer wrongfully took money as the court clerk, accordingly the Plaintiff referred to Lewis Coomer as a thief;
- b. Public records filed in court wherein Coomer was alleged to have committed adultery;

c. Advertisements wherein Coomer gave the court clerk's phone number, answered by employees paid by Putnam County, for his private apartment rental business;

d. Lewis Coomer was out cutting grass during the business hours of the clerk's office, accordingly the Plaintiff satirically pointed out that the Herald Citizen had inadvertently showed his neglect of office while the Herald Citizen tried to make him a hero; and

e. Lewis Coomer had unpaid parking tickets in excess of 40 tickets based on public information the Plaintiff obtained from the City of Cookeville, Tennessee. This list of stories that portray Lewis Coomer in a negative light is not all inclusive.

22. The Plaintiff was highly critical of Lewis Coomer. The First Amendment does not require a citizen exercising his freedom of speech and freedom of press to say only "good" things about a public official.

23. Lewis Coomer in response retaliated against Mr. Davidian by frustrating access to public information. Such retaliation is nothing more than a form of censorship.

24. As the result of the foregoing denial of civil rights (particularly freedom of speech, freedom of the press, and equal protection under the law) and 42 U.S.C. Section 1983, the Plaintiff has suffered damages which included but is not limited to the loss of timely access to data needed for the press, monetary damages as the result of the Plaintiff being inconvenienced and obstructed by pretextual delays in the denial of access to the public records, humiliation and mental anguish as to the Plaintiff, Geoff Davidian, and the increased cost of investigating public matters in Plaintiff's role as a disseminator of information, i.e. the press. He forever lost the ability to compete with the Herald Citizen newspaper because of his exercising his right to criticize the Defendant and fully inform the public of the Defendant Coomer's lack of fitness for public service.

WHEREFORE, the Plaintiffs asks this Court to grant the following relief:

1. This Court assume jurisdiction and grant the Plaintiffs a trial by jury of twelve persons;
2. This Court award the Plaintiff monetary damages in the amount of \$6,500.00 as determined at trial;
3. This Court award the Plaintiff attorney fees and other litigation costs;

4. This Court award punitive damages as determined by a jury of twelve persons;

5. This Court award or grant any other relief it deems appropriate.

Respectfully submitted,

Samuel J. Harris
P.O. Box 873
Cookeville, TN 38503
931-372-7227