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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE

2003 AUG 27 PM 1:06

U.S. DISTRICT COURT OF TN

ERIC HALL and wife LISA HALL,
individually and as next friends on behalf)
of the minor children, JANE DOE 1,)
JANE DOE 2, JANE DOE 3,)

Plaintiffs,)

vs.)

CITY OF COOKEVILLE, TENNESSEE, a)
municipal corporation organized and)
existing under the laws of the State of)
Tennessee,)

and)

BOB TERRY, individually and in his official)
capacity as Chief of Police, Cookeville)
Police Department,)

and)

JIM SHIPLEY, individually and in his)
official capacity as City Manager, City of)
Cookeville, Tennessee,)

Defendants.)

Civil Action No. 2 - - 03 . . 00 89

JURY DEMAND (12)

JUDGE HAYNES

JUDGE BROWN

JUDGE BROWN

COMPLAINT

Plaintiffs, ERIC HALL and wife LISA HALL, Individually and as Next Friends on behalf of the Minor Children, JANE DOE 1, JANE DOE 2, and JANE DOE 3, by and through the undersigned attorneys, for cause of action would show unto this Honorable Court as follows:

1. Jurisdiction is conferred upon this Honorable Court pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1343. Venue is appropriate in this Court under 28 U.S.C. §1391. This action is brought under 42 U.S.C. § 1983.

2. The Plaintiffs are all residents of Cookeville, Putnam County, Tennessee. The minor children JANE DOE 1, JANE DOE 2, and JANE DOE 3 are the minor daughters of Plaintiffs ERIC HALL and wife LISA HALL. The names of the minor children are being withheld to protect their identities.

3. Plaintiff ERIC HALL is and at all times referred to herein was employed by the Defendant, CITY OF COOKEVILLE, TENNESSEE, as a police officer.

4. The Defendant, CITY OF COOKEVILLE, TENNESSEE, also referred to herein as "CITY," is a municipal corporation organized and existing under the laws of the State of Tennessee in the County of Putnam.

5. The Defendant, BOB TERRY, also referred to herein as "CHIEF," is and at all times referred to herein was employed as the Chief of Police of the City of Cookeville, Tennessee.

6. The Defendant, JIM SHIPLEY, also referred to herein as "CITY MANAGER," is and at all times referred to herein was employed as the City Manager of the City of Cookeville, Tennessee.

7. Geoffrey Davidian ("Davidian") publishes and edits a small, free tabloid and Web page known as THE PUTNAM PIT and has been doing so since approximately 1995. References in this Complaint to the PUTNAM PIT shall include Davidian, THE PUTNAM PIT, INC., the tabloid known as *The Putnam Pit*, and the web site known as *putnampit.com*, as necessary or appropriate.

8. Since approximately 1995, the PUTNAM PIT has made extensive requests to the CITY for public information.

9. The PUTNAM PIT since approximately 1995 has been using the public records laws of the State of Tennessee to harass the CITY and create controversy for CITY employees.

10. Since approximately 1995, the PUTNAM PIT has involved the CITY in extensive litigation relating to information possessed by the CITY.

11. On or about the first day of January, 2003, the Plaintiff, ERIC HALL (who will also be referred to herein as "OFFICER HALL"), in his capacity as a police officer employee of the CITY, was assisting the Tennessee Highway Patrol with a felony traffic stop in Putnam County, Tennessee. During such felony traffic stop, a dog exited the vehicle being stopped and came toward OFFICER HALL. OFFICER HALL shot and killed the dog in the belief that he was being attacked by the dog. Subsequent events revealed that the subjects of the felony traffic stop were not wanted for the suspected felony under consideration. The felony traffic stop resulted from a mistake made by the Tennessee Highway Patrol. (The felony traffic stop and the shooting of the dog will be referred to herein as the "Incident").

12. The Incident received widespread media coverage in print and television news. News broadcasts portrayed the Incident as the wanton destruction of an innocent family's pet. Public outrage was directed at OFFICER HALL via print and television news media, as well as to the CITY directly via mail and email.

13. Following the Incident, the CITY received requests from various media and other entities for access to the personnel file of OFFICER HALL. Within days of the Incident, the PUTNAM PIT made email inquiries to the CITY for information concerning the Incident and concerning OFFICER HALL.

14. Prior to the Incident, the CITY had knowledge that the PUTNAM PIT had a propensity for obtaining sensitive information from the CITY and publishing the information on the internet at a world wide web site named "putnampit.com" in an effort to stir up public controversy against the CITY and its employees.

15. The CITY knew or should have known that releasing OFFICER HALL'S personnel file would endanger the Plaintiffs by substantially increasing the likelihood that the Plaintiffs would be deprived of their constitutional liberty interest in personal security.

16. Tennessee Code Annotated section 503(c)(1) as in effect at the time of the Incident and all relevant times herein provides in pertinent part as follows:

Except as provided in § 10-7-504(g) [relating to police officers "designated as working under cover"], law enforcement personnel records shall be open for inspection . . . ; however, whenever the personnel records of a law enforcement officer are inspected . . . , the custodian shall make a record of such inspection and provide notice, within three (3) days from the date of inspection, to the officer whose personnel records have been inspected:

- (A) That such inspection has taken place;
- (B) The name, address and telephone number of the person making such inspection;
- (C) For whom the inspection was made; and
- (D) The date of such inspection.

17. Tennessee Code Annotated section 504(f)(1)-(2) as in effect at the time of the Incident and all relevant times thereafter provides in pertinent part as follows:

(1) The following records or information of any . . . municipal . . . employee in the possession of a governmental entity in its capacity as an employer shall be treated as confidential and shall not be open for inspection by members of the public: unpublished telephone numbers; bank account information; social security number; driver license information except where driving or operating a vehicle is part of the employee's job description or job duties or incidental to the performance of the employee's job; and the same information of immediate family members or household members.

(2) Information made confidential by this subsection shall be redacted wherever possible and nothing in this subsection shall be used to limit or deny access to otherwise public information because a file, a document, or data file contains confidential information.

18. CITY released the entire personnel file of OFFICER HALL to the news media including the PUTNAM PIT.

19. The CITY did not provide to OFFICER HALL the notice required by T.C.A. §503(c)(1) after releasing his personnel file.

20. The CITY did not provide any notice to OFFICER HALL prior to or after releasing his personnel file.

21. The CITY did not redact all of the confidential information contained in OFFICER HALL'S personnel file which T.C.A. §504(f)(1)-(2) requires to be redacted.

22. In releasing OFFICER HALL'S personnel file, the CITY released the following information: OFFICER HALL'S social security number, OFFICER HALL'S driver's license number, OFFICER HALL'S date of birth, OFFICER HALL'S birth certificate, which included his mother's maiden name; OFFICER HALL'S finger prints, OFFICER HALL'S photograph, OFFICER HALL'S minor child's name and wife's name, and OFFICER HALL'S parents' names and place of employment.

23. The defendant CITY MANAGER is responsible for ensuring that personnel files which the CITY releases pursuant to the public records laws of the State of Tennessee have redacted from them the information which the statutes require to be redacted.

24. The PUTNAM PIT published on an internet web site located at putnampit.com OFFICER HALL'S entire personnel file as released by the CITY.

25. Subsequent to the publication of OFFICER HALL'S personnel file by the PUTNAM PIT, the Cookeville Police Department received numerous articles of hate mail pertaining to OFFICER HALL, some of which contained death threats against OFFICER HALL.

26. The Defendant Bob Terry, or CHIEF, knew of the hate mail and death threats and deliberately withheld this information from OFFICER HALL.

27. Approximately 30 days after the release of his personnel file, OFFICER HALL learned from another officer that OFFICER HALL'S entire personnel file was available on the internet at *putnampit.com*.

28. A short time thereafter, OFFICER HALL confronted the CHIEF regarding the release of the information, and the CHIEF informed OFFICER HALL that the Cookeville Police Department had received death threats and hate mail concerning OFFICER HALL. The CHIEF took it upon himself and determined the death threats and hate mail were not "important" enough to notify OFFICER HALL. One particular letter discussed raping and killing OFFICER HALL'S daughters and burying them like dogs in the backyard.

29. The knowledge that death threats and hate mail were occurring and that some were possibly going unread caused extreme amounts of stress and fear upon the Plaintiffs. By knowing that the CITY had received and discarded such information, the Plaintiffs wondered if any specific threats would be carried out which they could have been prepared for if they had known of them. At one point, OFFICER HALL's mother and minor children became hysterical when several people came to OFFICER HALL'S property, walked around the house, peeped into the bedroom windows, and knocked on the doors and windows. The minor children hid under the bed, and OFFICER HALL's mother frantically called OFFICER HALL and the Putnam County Sheriff's Office.

30. OFFICER HALL contacted the Federal Bureau of Investigation ("FBI"), regarding the numerous death threats against him. The FBI through their investigation discovered that a contract had been placed on OFFICER HALL's life for the amount of \$100,000. The CITY initially refused to cooperate with the FBI and did not release any information, which might have helped the investigation. The CITY simply acted as though they wanted the situation to go away.

31. After the Plaintiffs learned that OFFICER HALL's personnel file had been released, and that the CITY had received and discarded death threats and hate mail directed against OFFICER HALL and his family, the Plaintiffs were very scared. OFFICER HALL'S wife and minor children suffered psychological damages, mental anguish, and emotional distress. OFFICER HALL'S wife and minor children sought treatment with a mental health professional, and OFFICER HALL'S wife was placed on medication. OFFICER HALL suffered mental anguish and emotional distress.

32. Once CITY officials discovered that the CITY had released the personnel file of OFFICER HALL without his knowledge and that the CITY initially had refused to cooperate with the FBI, a city councilman approached OFFICER HALL and requested that OFFICER HALL contact the CITY to discuss a settlement of this matter. OFFICER HALL tried to contact the CITY and discuss a settlement; however, the CITY retaliated against OFFICER HALL by attempting to change his shift, by taking him off special unit assignment, and by sending him to a psychiatrist for an independent psychiatric evaluation. The CITY retaliated because OFFICER HALL hired an attorney to contact the CITY and inquire about his rights being violated.

33. Some time prior to June 26, 2003, the PUTNAM PIT contacted the CITY and requested a salary schedule of all CITY employees. In response to this request, on or about June 26, 2003, the CITY released to the PUTNAM PIT a schedule of employee information containing not only salary information, but also the social security number of every CITY employee, including OFFICER HALL. The CITY did not provide notice to OFFICER HALL or any other employee of this release until on or about July 16, 2003.

Count I

34. The Plaintiffs hereby re-allege paragraphs one (1) through 33 of this Complaint verbatim and incorporate the same by this reference as though fully set forth herein.

35. The Defendants, and each of them, violated the Plaintiffs' fundamental rights to personal security under the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States of America.

Count II

36. The Plaintiffs hereby re-allege paragraphs one (1) through 33 of this Complaint verbatim and incorporate the same by this reference as though fully set forth herein.

37. The Defendants, and each of them, violated the Plaintiffs' rights to privacy under the First and Fourteenth Amendments to the Constitution of the United States of America.

Count III

38. The Plaintiffs hereby re-allege paragraphs one (1) through 33 of this Complaint verbatim and incorporate the same by this reference as though fully set forth herein.

39. The Defendants, and each of them, violated the Plaintiffs' rights to privacy under Article I section 8 of the constitution of the State of Tennessee.

Count IV

40. The Plaintiffs hereby re-allege paragraphs one (1) through 33 of this Complaint verbatim and incorporate the same by this reference as though fully set forth herein.

41. T.C.A. § 10-7-503(c)(1) is void as being violative of the Constitution of the United States of America.

Count V

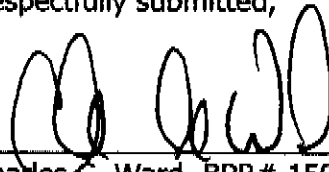
42. The Plaintiffs hereby re-allege paragraphs one (1) through 33 of this Complaint verbatim and incorporate the same by this reference as though fully set forth herein.

43. T.C.A. § 10-7-503(c)(1) is void as being violative of the constitution of the State of Tennessee.

WHEREFORE PREMISES CONSIDERED, the Plaintiffs pray as follows:

1. For a permanent injunction that enjoins the Defendants, and each of them, from releasing any further information regarding the Plaintiffs and/or the personnel file of OFFICER HALL without prior notice to the Plaintiffs and opportunity for a hearing.
2. For a permanent injunction that enjoins the Defendants, and each of them, from any retaliation against the Plaintiffs or any of them because the Plaintiffs have filed this lawsuit.
3. For this Honorable Court to declare that T.C.A. § 10-7-503(c)(1), in reference to a police officer's personnel file, is unconstitutional and void.
4. For a judgment against the Defendants jointly and severally for compensatory damages in an amount to be determined by an impartial jury.
5. For reasonable attorneys fees and discretionary costs.
6. For court costs to be taxed against the Defendants.
7. For a jury of twelve (12) to try the issues of this cause of action.
8. For any other, further, and general relief to which the Plaintiffs may prove entitled.

Respectfully submitted,



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