

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION

WILLIAM OWENS,

Plaintiff,

v.

LOGAN PROPES, Individually,
R.V. WATTS, Individually, and
THE CITY OF MONROE,

Defendants.

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CIVIL ACTION

FILE NO.3:21-cv-00084-CDL

AMENDED COMPLAINT FOR DAMAGES

COMES NOW the Plaintiff, WILLIAM OWENS, within the time allowed by Fed. R. Civ. P. 15, and states for his Amended Complaint as follows:

PARTIES

1.

The Plaintiff, WILLIAM OWENS, is a natural person residing in Walton County, Georgia.

2.

Defendant, LOGAN PROPES, is a natural person residing in Monroe, Walton County, Georgia. He is sued in his individual capacity. He is subject to the jurisdiction and venue of this Court. At all times relevant hereto, he was acting under color of law.

3.

Defendant, R.V. WATTS, is a natural person residing in Social Circle, Newton County, Georgia. He is sued in his individual capacity. He is subject to the jurisdiction and venue of this Court. At all times relevant hereto, he was acting under color of State law.

4.

The CITY OF MONROE is a municipal corporation and political subdivision of the State of Georgia. It is subject to the jurisdiction and venue of this Court.

5.

The City of Monroe is a "person" for purposes of 42 USC § 1983. It is subject to suit under §1983.

JURISDICTION AND VENUE

6.

The Court has jurisdiction under 42 USC § 1983. The Plaintiff also invokes the pendent jurisdiction of this Court to consider Plaintiff's state law claims.

7.

Venue is proper in this Court pursuant to 28 USC § 1391, as the events giving rise to the Plaintiff's claims occurred in this District and Division.

FACTUAL ALLEGATIONS

8.

The Plaintiff was a firefighter, employed by the City of Monroe. He had been employed by the City as a firefighter since May 2000, and was appointed as Fire Chief by the City of Monroe in January 2019.

9.

LOGAN PROPES is the City Administrator for the City of Monroe. At all times relevant to this Complaint, he was the Plaintiff's direct supervisor.

10.

R.V. WATTS is the Police Chief for the City of Monroe.

11.

The Plaintiff had a professional and personal relationship with K.I. The relationship was an intimate one.

12.

The Plaintiff and K.I. had regular communications with each other, including electronic communications by text messages and emails.

13.

The Plaintiff and K.I used personal electronic devices for this communications. The Plaintiff did not use his City-issued cell phone for communications with K.I.

14.

The Plaintiff and K.I. had an expectation of privacy in their electronic communications.

15.

On or about May 12, 2020, when K.I. was in the hospital for surgery, K.I.'s son illegally and without permission, accessed K.I.'s Apple watch to obtain electronic communications that were sent between the Plaintiff and K.I.

16.

Prior to doing so, K.I.'s son notified Defendant WATTS of what he was going to do, and requested Defendant WATTS' assistance and participation.

17.

Defendant WATTS then notified Defendant PROPES, and both traveled to meet K.I.'s son.

18.

Thereafter, K.I.'s son, Defendant WATTS and Defendant PROPES, illegally and without the permission of the owner (K.I.), accessed private communications that were stored on this device.

19.

Defendant WATTS, a law enforcement officer, knew or should have known, that accessing the data without permission of the owner was illegal.

20.

Defendant WATTS did not obtain a search warrant or Court Order to obtain access to the device, to obtain the stored data or obtain access to the data, or to disseminate the personal and private information and communications that were stored on it.

21.

Defendant WATTS knew or should have known that his actions were illegal.

22.

Defendants WATTS and PROPES provided the illegally obtained data and communications to others. The full extent of the distribution is not currently known to the Plaintiff.

23.

The son of K.I. asked Defendant PROPES to terminate the Plaintiff from his position as Fire Chief, to use the information illegally obtained from K.I.'s Apple watch to do so, and to share the personal and private information with others, specifically city officials.

24.

Defendant PROPES agreed to K.I.'s son's request.

25.

Shortly thereafter, Defendant PROPES contacted the Plaintiff and demanded that the Plaintiff resign, and threatened that if he did not resign, he would be terminated for "conduct unbecoming," based on the Plaintiff's relationship with K.I.

26.

In an effort to coerce and force the Plaintiff into resigning, Defendant PROPES also falsely told the Plaintiff that if he did not resign, he would not receive payments to which the Plaintiff was entitled to receive from the City of Monroe, including accrued leave.

27.

Defendants WATTS and PROPES shared the illegally obtained personal data and information with a number of other individuals.

28.

The Plaintiff retained an attorney, David C. Will, and through his counsel, he advised the City of Monroe of the illegal actions taken by Defendants WATTS and PROPES.

COUNT I.

Violations of Georgia Whistleblower Law

29.

The Plaintiff incorporates Paragraphs 1 through 28 hereinabove by reference as if set forth more fully hereinbelow.

30.

The Plaintiff is a “public employee” as the term is defined in O.C.G.A. § 45-1-4(e)(3).

31.

The Defendant City of Monroe is a “public employer” as the term is defined in O.C.G.A. § 45-1-4(a)(4) as it is a local government entity that receives funds from the State of Georgia and state agencies.

32.

The Plaintiff, personally and through his attorney, disclosed to the City the violation of O.C.G.A. § 16-11-64 by the City Police Chief, R.V. WATTS, and the City Administrator, LOGAN PROPES.

33.

In violation of O.C.G.A. §45-1-4, the City retaliated against the Plaintiff by terminating him from his position as Fire Chief, for the Plaintiff's disclosures of a violation of, or non-compliance with a law by city officials, which retaliation is in violation of O.C.G.A. § 45-1-4(d)(2).

34.

The retaliation by the City towards the Plaintiff violates the Georgia Whistleblower Protection Act, O.C.G.A. § 45-1-4 (Supp. 2021).

35.

The Plaintiff was damaged by the City's retaliation.

36.

Under the Georgia Whistleblower Protection Act, the Plaintiff is entitled to, and asks that the Court issue relief and damages against the City including an injunction restraining any further violations, order the reinstatement of the Plaintiff to the same position he held before the retaliation or to an equivalent position, order the reinstatement of full fringe benefits and seniority rights, award compensation for lost wages, benefits and other remuneration, award compensatory damages as allowed by law, and award to him his reasonable attorney's fees, court costs and expenses.

COUNT II

42 USC § 1983 – RETALIATION FOR EXERCISE OF FIRST

AMENDMENT RIGHTS

37.

The Plaintiff realleges each allegation set forth in Paragraphs 1 – 36 of this complaint and incorporates them herein by reference as if fully set out herein.

38.

For a number of years, the Walton County community, including the City of Monroe, offered a program called “Shop with a Cop.”

39.

The “Shop with a Cop” program was later to expand to include Fire

Department personnel and other first responders and was then known as “Shop

with a Hero.”

40.

While originally started by the Boards of Realtors, the program later

included City of Monroe employees.

41.

After citizen inquiries about lost monies and how the program funds were

used, the Plaintiff publicly suggested, and promoted that the program be run by a

private non-profit organization, with a Board of Directors of individuals not affiliated with the City.

42.

All of the Plaintiff's comments on the "Shop with a Cop" and "Shop with a Hero" were matters of public concern, including the community as a whole, and will not be matters of a personal concern to the Plaintiff or a grievance by him.

43.

Defendant PROPES was offended by the Plaintiff's efforts, was opposed to the Plaintiff's efforts, was adamantly opposed to forming the private entity, and wanted the program to remain under his control.

44.

Defendant PROPES expressed that the Plaintiff was being disloyal because of his comments, and found fault with the Plaintiff's stance in the creation of a § 501 (c)(3) corporation to run the program.

45.

The Plaintiff's public comments in favor of the private administration of the program, instead of with the City by Defendant PROPES, was a motivating factor in PROPES proposing, and the City accepting, PROPES' recommendation to terminate the Plaintiff from his position as Fire Chief.

46.

The Plaintiff's comments were protected by the First Amendment to the United States Constitution.

47.

The Defendants violated the Plaintiff's rights to free expression, as guaranteed to him by the First Amendment to the United States Constitution.

48.

The Defendants are liable to the Plaintiff under 42 USC § 1983 for the deprivation of his Constitutional rights.

COUNT III

42 USC § 1983 – VIOLATION OF RIGHT TO FREEDOM OF ASSOCIATION

49.

The Plaintiff realleges each allegation set forth in Paragraphs 1 – 48 of this complaint and incorporates them herein by reference as if fully set out herein.

50.

The Plaintiff's intimate relationship with K.I. was protected and guaranteed under the United States Constitution.

51.

The Defendants interfered with the Plaintiff's relationship with K.I. and Defendant PROPES and the CITY OF MONROE retaliated against the Plaintiff because of his relationship with K.I., in violation of his constitutional rights as guaranteed to him under the First Amendment to the Constitution.

52.

The Plaintiff has been damaged as a result of the Defendants' actions and is entitled to recover damages for this violation from Defendants PROPES AND THE CITY OF MONROE.

COUNT IV

VIOLATION OF STORED COMMUNICATIONS ACT

53.

The Plaintiff realleges each allegation set forth in Paragraphs 1 – 52 of this complaint and incorporates them herein by reference as if fully set out herein.

54.

Defendants WATTS and PROPES illegally accessed stored communications on K.I.'s Apple watch, including opened and unopened text messages from the Plaintiff to K.I. and from K.I. to the Plaintiff.

55.

The actions of Defendants WATTS and PROPES were intentional.

56.

By accessing the stored communications, Defendants WATTS and PROPES violated federal law, specifically the Stored Communications Act, 18 USC §§ 2701, et seq.

57.

The Plaintiff is a person aggrieved by the actions of Defendants WATTS and PROPES and is authorized by 18 USC § 2707 to maintain this action.

58.

The Plaintiff was harmed by the actions of Defendants WATTS and PROPES and has suffered losses.

59.

Under 18 USC § 2707 the Plaintiff is entitled to recover compensatory damages against Defendants WATTS and Propes and because their actions were intentional, he may also recover punitive damages against them.

COUNT V

VIOLATION OF STATE LAW BY ILLEGAL INTERCEPTION OF ELECTRONIC COMMUNICATIONS

60.

The Plaintiff realleges each allegation set forth in Paragraphs 1 – 59 of this complaint and incorporates them herein by reference as if fully set out herein.

61.

Defendants WATTS and PROPES, in violation of Georgia law, illegally and unlawfully participated in the interception of electronic communications between the Plaintiff and K.I.

62.

Defendants WATTS and PROPES despite knowing that such communications had been illegally and unlawfully obtained, divulged those communications to others, including Defendant CITY OF MONROE.

63.

The Plaintiff has been damaged as a result of the Defendants' illegal actions and is entitled to recover damages against Defendants WATTS and PROPES for their illegal conduct.

COUNT VI

42 USC § 1983 – ILLEGAL SEARCH AND SEIZURE IN VIOLATION OF THE UNITED STATES AND GEORGIA CONSTITUTIONS

64.

The Plaintiff realleges each allegation set forth in Paragraphs 1 – 63 of this complaint and incorporates them herein by reference as if fully set out herein.

65.

The Defendants' actions in intercepting, acquiring, retaining, using and disseminating the communications between the Plaintiff and K.I. constitute illegal searches and seizures in violation of the United States and Georgia Constitutions.

66.

The Plaintiff has been damaged as a result of the Defendants' actions and is entitled to recover damages for their illegal conduct.

COUNT VII

VIOLATION OF RIGHT TO PRIVACY BY PUBLIC DISCLOSURE OF PRIVATE FACTS

67.

The Plaintiff realleges each allegation set forth in Paragraphs 1 – 66 of this complaint and incorporates them herein by reference as if fully set out herein.

68.

The Plaintiff enjoys the right to privacy as guaranteed to him by the Constitution and laws of the State of Georgia.

69.

Defendants WATTS and PROPES obtained, disclosed and made public, private and secret facts about the Plaintiff, the disclosure of which damaged the Plaintiff.

70.

The disclosure of these facts about the Plaintiff was embarrassing to the Plaintiff and caused him emotional distress and mental anguish.

71.

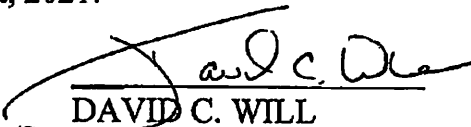
The Plaintiff has been damaged by the Defendants WATTS and PROPES breach of the Plaintiff's right to privacy for which he is entitled to recover damages against them as allowed by law.

WHEREFORE, having fully stated the foregoing for his Complaint, the Plaintiff prays that:

- (a) Summons and Process issue and the Defendants be served as provided by law;
- (b) The Court inquire into and sustain the allegations contained in his complaint;
- (c) He receive a trial by jury;
- (d) He have and recover all damages allowed by law against Defendant CITY OF MONROE under COUNTS I, II, III, and VI, including compensatory and special damages;
- (e) He have and recover all damages against Defendants WATTS and PROPES under COUNTS II, III, IV, V, VI, VII as are allowed by state and federal law, including compensatory, special and punitive damages;

- (f) He have and recover his attorneys fees, costs and expenses of litigation under 42 USC § 1983;
- (g) The Court cast all costs upon the Defendants;
- (h) The Court enter judgment in favor of the Plaintiff and against the Defendants; and
- (i) The Court award such other and further relief as is just, proper and equitable.

This 23rd day of August, 2021.



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