

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

TROY D. BROWN

PLAINTIFF

VERSUS

NO. 4:14-CV-114-DMB-JMV

LEFLORE COUNTY, MISSISSIPPI

DEFENDANTS

JURY TRIAL DEMANDED

COMPLAINT

This is an action to recover actual damages and for declaratory and injunctive relief for violation of rights under the First Amendment of the United States Constitution. The following facts support this action:

1.

Plaintiff TROY D. BROWN is an adult resident citizen of 3163 Highway 430 South, Greenwood, Mississippi 38930.

2.

Defendant LEFLORE COUNTY, MISSISSIPPI is a political subdivision of the State of Mississippi. It may be served with process through its Chancery Clerk, Sam Abraham, 306 W Market St Greenwood, MS 38930. At all relevant times, Defendant acted under color of state law.

3.

This Court has jurisdiction under 28 U.S.C. § 1343, for a cause of action authorized by 42 U.S.C. § 1983 and by the freedom of speech provisions of United States Constitution Amendment One.

4.

At all relevant times, Defendant, pursuant to Mississippi statute, was governed by a board of supervisors. Under state law, the board of supervisors has the ultimate management authority for county affairs, and is ultimately responsible for the hiring and firing of county employees, including the county administrator.

5.

For many years, Leflore County Chancery Clerk Sam Abraham has been employed by the Leflore County Board of Supervisors to have the additional duty of county administrator. Abraham is the chief executive officer of the county by virtue of the Leflore County Board of Supervisors designating him as the county administrator.

6.

Pursuant to state law, the board of supervisors employs a director of emergency management.

7.

Based on Plaintiff's eight (8) years as a projects officer with the Federal Emergency Management Agency ("FEMA"), the Leflore County Board of Supervisors, in August 2013, hired him as the Greenwood-Leflore Emergency Management Director. Plaintiff's eight (8) years of experience made him uniquely qualified for this position. Plaintiff accepted the position at a substantial salary loss so as to be able to spend more time at home near his family.

8.

In compliance with state statute, Plaintiff was assigned to work under the supervision of the Leflore County Board of Supervisors.

9.

Nevertheless, because of a long-time practice and procedure in county affairs, the Leflore County Chancery Clerk and Administrator Abraham had been accustomed to directing the activities of the Greenwood-Leflore Emergency Management Agency, and had exercise and control over that agency prior to Plaintiff's being hired. Controversy developed between Abraham and Plaintiff concerning Abraham's desires to continue operation of the agency.

10.

In an executive session late December 2013, the Leflore County Board of Supervisors voted to place Plaintiff under the formal supervision of Abraham.

11.

The Leflore County Board of Supervisors placing Plaintiff under the supervision of Abraham caused an internal rift within the Leflore County Board of Supervisors, with two (2) supervisors, Supervisor Collins and Supervisor Moore, opposing the transfer of Plaintiff to work under Abraham. This controversy ultimately resulted in Collins being removed as board president. Collins removal as board president was in violation of state law, which requires board presidents be selected for a four (4) year term.

12.

At or shortly following his removal as board president, Collins reported to the Greenwood Commonwealth that the reasons for his removal as being "the county administrator thought he should be over the emergency manager." Collins also made statements to the Greenwood Commonwealth, that his disagreement with County Administrator Abraham cost him the presidency of the board. Based upon the statements made by Collins when he was removed as president of the board, it is a reasonable inference that Collins was removed as president because of Abraham's

influence over the Leflore County Board of Supervisors.

13.

The new Leflore County Board of Supervisor President Wayne Self informed the Greenwood Commonwealth that the board voted to oust Collins because it was “upset over remarks Collins had made to the newspaper.”

14.

Plaintiff reported to County Administrator Abraham for approximately one week. In early January 2014, the board voted to remove Plaintiff from Abraham’s supervision, and to place Plaintiff under the supervision of the Leflore County Sheriff Rickey Banks. This arrangement was apparently done as a compromise between those supervisors who wanted Plaintiff to report to the board (see Miss. Code Ann. § 33-15-17) and those who wanted Abraham to control all county employees.

15.

Notwithstanding Plaintiff’s having been placed under the direction of the sheriff, the controversy among members of the board of supervisors continued, with the supervisors debating county affairs in the news media (The Greenwood Commonwealth). Supervisor Collins maintained that he was illegally removed as president, that Abraham had “engineered” his ousting, and Abraham responded to these allegations as a “bold face lie.”

16.

On February 16, 2014, Plaintiff posted in the Greenwood Commonwealth the article entitled *Brown: Abraham Wants Me Out*, Exhibit “A.” In this article, Plaintiff made statements protected by the First Amendment criticizing the degree to which Abraham controls county affairs, stating that Chancery Clerk Sam Abraham “believes from the depth of his heart that he runs Leflore County and

everybody in it . . .,” and that regardless of what expertise is “brought to the table,” that expertise is disregarded in favor of Abraham’s opinions.

17.

On Sunday, February 23, 2014, Plaintiff wrote another letter to the Greenwood Commonwealth (Exhibit “B”), in which he again expressed disfavor with Abraham’s control over the board of supervisors, stating, in part: “there is no disputing that he has been involved over the years in helping various supervisors win their elections, including over incumbents with whom he has battled.” See Letter to the Editor entitled *This is more than a workplace tiff*, dated February 23, 2014, attached hereto as Exhibit “B.” This letter opined that “after the next election, ‘the magic’ will come to an end.” *Id.*

18.

On or about February 24, 2014, the Leflore County Board of Supervisors terminated Plaintiff’s employment by a vote of three (3) to two (2). See Article Entitled *Board dismisses Brown*, dated February 25, 2014, attached hereto as Exhibit “C.”

19.

A substantial contributing cause of Plaintiff’s termination was his exercise of First Amendment rights, by his writing the letters to the editor, Exhibits “B” and “C.” Indeed, Board President Self criticized Plaintiff for “running to the paper,” and said that Plaintiff’s decision to speak to the press “factored” in the decision to fire him. See Exhibit “C.”

20.

Defendant will contend that Plaintiff’s First Amendment right to speak out against Abraham’s role in county government is outweighed by considerations of governmental efficiency.

Defendant is estopped to deny that such concerns about governmental efficiencies outweigh Plaintiff's First Amendment free speech rights since County Administrator Abraham and members of the Leflore County Board of Supervisors have openly debated in the news media the merits or lack of merits of the matters Plaintiff discussed. Defendant has admitted that economic efficiency or disparaging statements made in the newspaper about an employee is not cause for termination because it has not terminated Abraham for his remarks, which also evidence disagreement between local government employees.

21.

United States Constitution Amendment One requires that the government not discriminate between these with conflicting opinions. At the time of his termination, Plaintiff was not a subordinate of Abraham but, to the contrary, reported to the county sheriff, and should have been reporting to the Leflore County Board of Supervisors. See Miss. Code Ann. § 33-15-17. Plaintiff's First Amendment right to inform citizens of his opinion about Abraham's control of county affairs, and to raise legitimate concerns as to whether one who is an employee of the board of supervisors is controlling his own employer, was a valid First Amendment free speech right. An interest in governmental efficiency does not outweigh this First Amendment right to express an opinion on matters of public importance, when governmental officers have voiced the opposite side of the dispute in the news media.

22.

Plaintiff is entitled to actual damages for lost income and mental anxiety and stress as a result of his discharge.

REQUEST FOR RELIEF

Plaintiff requests actual in an amount to be determined by a jury and reinstatement. Plaintiff also requests reasonable attorneys' fees, costs, and expenses.

This the 13th day of August, 2014.

Respectfully submitted,

WAIDE & ASSOCIATES, P.A.

BY: /s/ JIM WAIDE

JIM WAIDE

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