

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

JAN POWELL,)	
)	
Plaintiff,)	
)	
v.)	No. _____
)	
CANNON COUNTY, TENNESSEE,)	
MIKE GANNON,)	
in his individual and official capacity as)	
Mayor for Cannon County,)	Jury Demand
Tennessee, and ADAM MELTON, in his)	
individual and official capacity as a)	
County Commissioner for Cannon County,)	
)	
Defendants.)	
_____)	

COMPLAINT

Plaintiff Jan Powell, by and through the undersigned counsel, sues Defendants Cannon County, Tennessee, (“the County”), Mike Gannon (“Gannon”), in his individual and official capacity as Mayor of Cannon County and Adam Melton (“Melton”) in his individual and official capacity as County Commissioner for Cannon County, showing as follows:

NATURE OF THE ACTION

1. This is a free-speech case on behalf of Plaintiff Jan Powell, who is a citizen and resident of Cannon County, Tennessee.
2. At issue in this case is whether elected county officials can threaten and conspire against citizens for speaking out about matters of County business.

3. Defendants' policies and practices violate Plaintiff's freedom of speech under the First Amendment to the United States Constitution, as applied to the states under the Fourteenth Amendment.

JURISDICTION AND VENUE

4. Plaintiff brings this action pursuant to 42 U.S.C. § 1983 for Defendants' violations of her civil rights under the First and Fourteenth Amendments to the United States Constitution.

5. Plaintiff additionally brings this action pursuant to 42 U.S.C. § 1985 for Defendants Gannon and Melton's conspiracy to deprive Plaintiff of her rights and privileges guaranteed by the United States Constitution.

6. This court has subject-matter jurisdiction over this matter pursuant to 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1343(a)(3) (civil rights).

7. The Defendant County and Defendants Gannon and Melton, upon information and belief, are citizens and residents in this district and division and the unlawful practices complained of and that give rise to the claims herein occurred within this district and division.

8. Venue is proper in this judicial district and division pursuant to 28 U.S.C. § 1391(b).

PARTIES

9. Plaintiff Jan Powell is a life-long citizen and resident of Cannon County, Tennessee, and has been at all times relevant to this action.

10. Defendant Gannon is the duly elected Mayor of Defendant Cannon County, Tennessee, and has served in that capacity during all times relevant to this action.

11. As Mayor of Defendant Cannon County, Defendant Gannon is ultimately responsible for all municipal issues, including acting as Chairman of the County Commission and conducting County Commission meetings and business.

12. As Mayor of Defendant Cannon County, Defendant Gannon is a final policy maker for the municipality.

13. As Mayor of Defendant Cannon County, Defendant Gannon is a public official.

14. Defendant Melton is a duly elected County Commissioner of Defendant Cannon County, Tennessee, and has served in that capacity during all times relevant to this action.

15. Defendant Melton is a public official.

16. Plaintiff is a concerned citizen of Cannon County and often attends public meetings, including County Commission meetings, where County business is discussed and conducted. At times, Defendant Gannon, acting as the Chairman of the Cannon County Commission, refused to allow the Plaintiff to speak openly and has threatened to have her evicted from the public meetings and even arrested for attempting to express her opinion regarding government business.

17. Plaintiff has attended public meetings for approximately three or four years.

18. At times, Plaintiff has been critical of the decisions of her elected public officials, including the decisions of Defendants Gannon and Melton.

19. At times, Plaintiff will express or attempt to express her criticism of County business and decisions in a public way, including comments and posts on Facebook and at the open Cannon County Commission Meetings.

20. Plaintiff made such a critical Facebook post regarding Cannon County Government decisions shortly prior to receiving an anonymous, threatening letter, which provides the basis for this action.

21. Specifically, Plaintiff complained about the use of Defendant County funds to pay for childcare, which expenditure had been approved by the County Commission. Plaintiff, in

effect, expressed her opinion that a parent should be responsible for his/her own childcare expenses.

22. Defendant Gannon's office is located in the historic courthouse on the Woodbury town square in Cannon County, Tennessee.

23. On or about January 17, 2017, a courthouse employee overheard Defendant Gannon boisterously bragging to Defendant Melton about sending a threatening letter to Plaintiff. In reference to the letter, Defendant Gannon stated to Defendant Melton various remarks, including that the letter contained a claim that the recipient of the letter had allegedly performed a sex act in a horse trailer, and if the recipient of the letter did not stop posting (criticism regarding the County Commission) on Facebook, that allegation would be made public. Defendant Gannon, in his conversation with Defendant Melton, described the letter as stating "if you don't think they won't find out, I'm warning you. You shut up or I am putting every bit of this on Facebook." Defendant Gannon told Defendant Melton: "Then it said, if you're not (quiet), I remember when you were on a horse ride a few years ago and in the back of a horse trailer." Defendant Gannon also told Defendant Melton in their meeting that the letter includes a statement such as: "How would your church folks feel about you then?" Defendant Gannon told Defendant Melton that even though he cannot remember the exact words from the letter, it included a statement such as: "If I were you, I would stay off, I'm telling you, if I were you, I would be quiet on Facebook." Finally, Defendant Gannon told Defendant Melton that: "She should have gotten it today, it was mailed yesterday. That's what I heard."

24. Approximately two days after the courthouse employee overheard the conversation between Defendants Gannon and Melton, Plaintiff received a letter in the mail, which, in a block

script, threatened to disclose scandalous information about Plaintiff from an alleged incident in a horse trailer, and stated:

Jan,
You need to think about not saying anything else on Facebook. If you, continue, I am going to tell the world, on Facebook;;;;

I wonder what your church would think about that. If that doesn't work, I know some other things I will share about you.

A copy of the letter described by Defendant Gannon to Defendant Melton two days before it was received by the Plaintiff is attached hereto as "Exhibit A" to this Complaint. A copy of the envelope in which the Plaintiff received the letter is attached hereto as "Exhibit B".

25. After information about this letter became known, Plaintiff discovered that Defendant Gannon, using the same block script as in "Exhibit A", allegedly sent letters to at least two other female Cannon County citizens who were vocal regarding County Government decisions, prior to the letter being mailed to the Plaintiff. Each such letter was sent to threaten and intimidate the female citizens from voicing their concerns regarding public and governmental activities in Cannon County. One previous letter states:

Dottie,
If I were you I would stop criticizing the three Aldermen who voted against Ray Hunt. You know about the time cards..."

This letter to "Dottie" is in reference to an anonymous threatening letter received by Cannon County citizen Dottie Dougin, whose name was mentioned during the conversation between Defendant Gannon and Defendant Melton which was overheard on or about January 17, 2017. Defendant Melton stated during that meeting: "Boy, it sure shut Dottie up. It sure shut Dottie, it sure did," obviously referring to the previous anonymous threatening letter mailed to Dottie Dougin.

26. By sending threatening letters in response to the expressive activity of Cannon County's citizens on multiple occasions and by virtue of his position as the highest policy maker in the County, Defendant Gannon established a custom and policy of the County.

27. On information and belief, Defendant Gannon is under investigation by the Tennessee Bureau of Investigation for his conduct related to these events and others.

28. Defendant Mayor Gannon is a state actor. He is sued in his individual and official capacities.

29. Defendant Commissioner Melton is a state actor. He is sued in his individual and official capacities.

30. Defendants Gannon, Melton, and the County, at all times relevant hereto, were acting under color of law.

Count One:

First Amendment Retaliation

31. Plaintiff re-alleges and incorporates by reference all of the preceding paragraphs in this Complaint.

32. Plaintiff's expressive activity regarding the business and decisions of the County Commission is protected by the Free Speech Clause of the First Amendment because it is criticism of official conduct of the County and its elected public officials.

33. Neither factual error nor defamatory content suffices to remove the constitutional protection from criticism of official conduct.

34. A threatening letter against a resident from the Defendant Mayor, in conspiracy, with a County Commissioner, in response to the resident's criticism of the actions and decisions of the County Commission is an adverse action.

35. Threatening letters in response to criticism of the actions and decisions of the County Commission is the type of adverse action that would chill a person of ordinary firmness from continuing to engage in criticism of the County Commission.

36. Defendants' sending of the letter was motivated by Plaintiff's exercise of expressive activity.

Count Two:

Conspiracy to Violate Civil Rights

37. Plaintiff adopts and incorporates in this Count all of the allegations and averments of this Complaint.

38. Defendants Gannon and Melton conspired to deprive Plaintiff of her civil rights in violation of 42 U.S.C. § 1985.

39. Defendants Gannon and Melton developed a plan of action to retaliate against Plaintiff for her expressive activity and to threaten and coerce Plaintiff from engaging in further expressive activity.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief:

- A. An order declaring that the Defendants violated the Plaintiff's rights protected under the First and Fourteenth Amendments to the United States Constitution;
- B. An order enjoining Defendants from taking further retaliatory action against Plaintiff and others for engaging in protected, expressive activity;
- C. An award of compensatory damages;
- D. An award of punitive damages against Defendants Gannon and Melton;

E. An award of attorneys' fees and costs associated with this action, pursuant to 28 U.S.C. § 1988, *et seq.* or under any other relevant authority;

F. Such further and different relief as this Court may deem just and proper or that is necessary to make the Plaintiff whole.

THE PLAINTIFF REQUESTS A JURY HEAR HER CAUSES OF ACTION.

Respectfully submitted,

/s/Terry A. Fann

Terry A. Fann (TN Bar No. 12968)
Benjamin L. Parsley, III (TN Bar No. 26888)

Attorneys for Plaintiff

Waldron, Fann & Parsley

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202 West Main Street
Murfreesboro, TN 37130
(615)890-7365

&

/s/Kerry Knox

Kerry Knox (TN Bar No. 023302)
Attorney for Plaintiff

kek@castelliknox.com

117 South Academy Street
Murfreesboro, TN 37130
Telephone: (615) 896-1000
Facsimile: (615) 896-1027

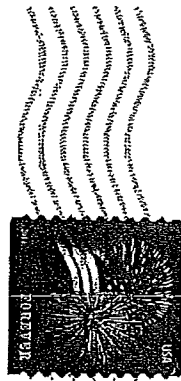
Jan,

you need to think about not saying anything else on Facebook. If you continue, I am going to tell the world, on Facebook, about the time you were in a horse trailer at the Horse Hide giving blow jobs to several guys. I wonder what your church would think about that. If that doesn't work, I know some other things I will share about you. Remember, to each his own!

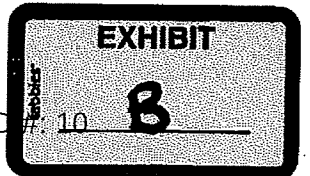
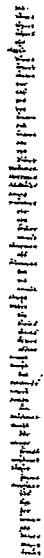
Per Jan Powell

Jan Powell
1810 Pleasant View Rd,
Woodbury, TN. 37190

NASHVILLE TN 37228
17 JAN 2013 PM 1 T



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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Jan Powell

(b) County of Residence of First Listed Plaintiff Cannon
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Terry Fann, Waldron Fann & Parsley, 202 West Main Street,
Murfreesboro, TN 37130 615-890-7365

DEFENDANTS

Cannon County, Tennessee, Mike Gannon, Individually and as Mayor,
Adam Melton, Individually and as County Commissioner

County of Residence of First Listed Defendant Cannon
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|--|---|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question
(U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity
(Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- | | | | | | | |
|---|---|--|---|--|--|---|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District (specify) | <input type="checkbox"/> 6 Multidistrict Litigation - Transfer | <input type="checkbox"/> 8 Multidistrict Litigation - Direct File |
|---|---|--|---|--|--|---|

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 USC Section 1983; 42 USC Section 1985

Brief description of cause:
Conspiracy to deprive citizen of free speech

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____