

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GLEN NAGHTIN,

Plaintiff,

v

MONTAGUE FIRE DISTRICT BOARD
and DENNIS ROESLER, in his personal and
official capacity,

Defendants.

Case No. 1:14-cv-1224

Hon.

**COMPLAINT FOR VIOLATION OF FIRST AMENDMENT TO UNITED
STATES CONSTITUTION PURSUANT TO 42 U.S.C. § 1983**

DEMAND FOR JURY TRIAL

Jurisdiction and Venue

1. This is an action for damages, to remedy violations of Plaintiff's rights under the First Amendment to the United States Constitution under 42 U.S.C. § 1983.

2. This Court has jurisdiction of this action under 28 U.S.C. §§ 1331 and 1343.

3. Venue is proper in the Western District of Michigan because all events surrounding this Complaint occurred in or around Montague, Michigan, a city in the Western District of Michigan. All allegations in this complaint are made on information and belief, except as to events in which plaintiff was personally involved.

4. Plaintiff is a resident of the City of Montague. He joined the Montague Fire Department in May, 1980 and served continuously until he was terminated by the Defendants on December 7, 2011.

5. Defendant Montague Fire District is, upon information and belief, the authority created by the City of Montague and the Townships of Montague and White River to provide fire protection to the citizens of those areas pursuant to MCL 19.1, et. seq.

6. Defendant Dennis Roesler is a resident of the City of Montague and served as the Fire Chief of the Montague Fire District from approximately 1998 until approximately October, 2014 when he resigned after a felony conviction. During the time he served as Fire Chief, Roesler was the highest ranking individual in the Montague Fire District. He is sued in both his individual and official capacities.

Common Allegations of Factual Background

7. Beginning around 2009 or 2010, the Defendant Montague Fire District Board authorized construction of a new fire station.

8. At various times after the construction started, Defendant Roesler's brother, Donald Roesler, spoke out about the flaws in the construction, including the fire code violations and the deviations from accepted specifications. Donald Roesler was a Captain of the Montague Fire District at the time. He had been elected to this position by the fire fighters in the district.

9. Since Defendant Montague Fire District Board authorized Defendant Roesler and another individual to supervise construction of the new fire station, all communication about the subject was to go through them, thereby shielding the public and the Montague Fire District Board from issues regarding the construction's non-compliance with code and contracted specifications.

10. As a result of the mounting tensions surrounding this issue, Captain Roesler requested a leave of absence from the fire department until the issues cooled. Despite the fact

that no one had ever been denied a leave of absence, Defendant Roesler denied Captain Roesler's request and instead demoted Captain Roesler to fire fighter due to his speaking out about the issues with the fire station construction.

11. Plaintiff is informed and believes that the Defendant Montague Fire District Board never gave Defendant Roesler sole authority to remove any officers of the fire department once elected by the membership. Nonetheless, the Defendant Montague Fire District Board allowed this action.

12. After Captain Roesler was demoted, Plaintiff initiated a Petition to reinstate him and circulated it amongst most of the firefighters. A copy of that Petition is attached as Exhibit 1 to this Complaint. The purpose of the Petition was to inform the citizens of the city that their Fire Chief was leaving them without properly trained personnel in certain aspects of fire protection because Donald Roesler, like Plaintiff, had been speaking out on issues of public concern, including problems connected with the building of the new fire station. Plaintiff and others who signed the Petition were also concerned that the fire district was losing a key command officer who had specialized skills, certifications and experience not possessed by others in the district. They were further concerned that Defendant Roesler had circumvented their election of Donald Roesler as their Captain and demoted him because he had questioned construction of the new fire station.

13. Sometime after Plaintiff circulated the Petition, another individual mailed it to each member of the Defendant Montague Fire District Board. Thereafter, the Defendant Montague Fire District Board scheduled a special meeting for December 7, 2011.

14. At the December 7, 2011 meeting, Defendant Roesler recommended that the Defendant Montague Fire District Board terminate Plaintiff's employment and the Board then voted to do so.

15. Plaintiff is informed and believes that the Defendants terminated his employment due to his initiating and circulating the Petition concerning Captain Roesler's termination. This was a violation of his First Amendment right to speak out on a matter of public concern, including Defendant Roesler's custom and practice of taking adverse employment action against anyone who criticized his performance as Chief.

16. Defendant Montague Fire District Board's responses to Chief Roesler's actions amounted to a system of informal regulation of political speech and was designed to chill any firefighter of ordinary sensitivities from exercising his or her rights to First Amendment protections.

17. As a consequence of Defendants' actions, the movement opposing Defendant Roesler's termination of Donald Roesler and its consequence to the city's residents was silenced as other firefighters were unwilling to risk being terminated for exercising their First Amendment rights to oppose The Defendants' policies and practices. Consequently, Plaintiff and other firefighters supporting his position were unable to achieve their goals in making and continuing the citizens' awareness of the Defendants' over-spending and under-protecting them with respect to fire protection.

18. Each of the Defendants deliberately and willfully terminated Plaintiff's clear and well-established First Amendment rights by creating, in essence, an informal system of censoring speech through an abuse of the statutory powers available to Montague Fire District.

19. Defendant Roesler's conduct was either motivated by evil or involved reckless or callous indifference to plaintiff's First Amendment rights.

20. Plaintiff was injured as a consequence of the Defendants' actions in that his First Amendment freedoms were violated, he was terminated from his position as firefighter for which he lost employment income and benefits. In addition, Plaintiff lost opportunities for probable promotions. Plaintiff also suffered emotional distress, pain and suffering, loss of capacity for the enjoyment of life, humiliation, embarrassment, and injury to reputation. The precise amount of plaintiff's damages will be determined at trial.

WHEREFORE, plaintiff respectfully requests judgment:

A. Declaring that Defendants violated Plaintiff's rights as protected by the First Amendment to the United States Constitution, and declaring their policy of terminating those who speak out about or petition about the city's Fire Chief unconstitutional;

B. Awarding compensatory and punitive damages to Plaintiff in an amount to be proven at trial;

C. Granting attorneys' fees to Plaintiff;

D. Granting such other relief as the Court deems appropriate.

Dated: November 25, 2014

/s/ Judy E. Bregman
Judy E. Bregman (P32252)
BREGMAN & WELCH
Attorneys for Plaintiff
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JURY DEMAND

NOW COMES Plaintiff and hereby demands trial by jury in the above-captioned case.

Dated: November 25, 2014

/s/ Judy E. Bregman
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