

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Ameer Bagley,

Plaintiff,

v.

City of Columbia, Columbia City Council,
Columbia Fire Department, Fire Chief
Aubrey D. Jenkins, and City Manager
Teresa Wilson,

Defendants.

C/A No.: 3:22-cv-03330-CMC
[State Court C/A No. 2022-CP-40-02483]

NOTICE OF REMOVAL

Defendant City of Columbia, on behalf of itself and its City Council and Fire Department, as well as its Fire Chief and City Manager (in their official capacities) (hereinafter, collectively referred to as “Defendant City”), by way of removal, pursuant to 28 U.S.C. §§ 1331, 1441(a), 1443, and 1446(a), (b), and (d), would respectfully show unto this Court:

1. This action was commenced by Plaintiff the filing a Summons and Complaint on May 10, 2022, in the Court of Common Pleas for Richland County, South Carolina. The Summons and Complaint were served upon the City Clerk pursuant to Rule 4, SCRCPP, on or about August 30, 2022. This action is now pending in the Court of Common Pleas for Richland County, South Carolina, which is located within the Columbia Division of this Court by reason of 28 U.S.C. § 121(2). Plaintiff’s Complaint asserts a claim for violation of Plaintiff’s First Amendment rights.

2. Thirty days have not elapsed since service of the Summons and Complaint upon the City Clerk. To date, no responsive pleadings as to Plaintiff’s Complaint have been filed.

3. Pursuant to 28 U.S.C. § 1331, the district court has original jurisdiction over all civil actions arising under the Constitution, laws, or treaties of the United States, which includes civil actions arising under the First Amendment of the United States Constitution.

4. Pursuant to 28 U.S.C. § 1441(a), removal of this action to the United States District Court, for the district and division embracing the place where this action is pending in proper.

5. By virtue of 28 U.S.C. §§ 1331 and 1443 and 42 U.S.C. § 1983, the United States District Court has original jurisdiction over civil actions concerning civil rights of citizens of the United States and all persons within the jurisdiction thereof. Removal of Plaintiff's claim is not expressly prohibited under the laws of the United States of America and the existence of concurrent jurisdiction in the state court over claims asserting violations of the First Amendment to the United States Constitution under 42 U.S.C. § 1983 is insufficient, standing alone, to defeat removal under 28 U.S.C. § 1441.

6. By virtue of the foregoing, this action is hereby removed to the United States District Court for the District of South Carolina, Columbia Division.

7. Filed herewith in this Court a copy of all process, pleadings, and orders served by or upon the City Clerk in this action, as part of the Notice of Removal, which consists of the following:

- Summons and Complaint, filed May 10, 2022;

8. The Clerk of Court for Richland County, South Carolina, from which this action is removed and Plaintiff's counsel shall promptly be given written notice that the Notice of Removal has been filed and shall be provided a copy of the Notice of Removal.

9. Each Defendant that has been properly joined and served consents to the removal of this action to the District Court.

WHEREFORE, Defendant City prays that this Notice of Removal be accepted as sufficient for removal of this action to this Court.

s/Jacqueline M. Pavlicek

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**ATTORNEY FOR DEFENDANTS CITY
OF COLUMBIA, COLUMBIA CITY
COUNCIL, COLUMBIA FIRE
DEPARTMENT, FIRE CHIEF AUBREY
JENKINS (official capacity only), and
TERESA WILSON (official capacity only).**

September 28, 2022

Columbia, South Carolina

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND)	IN THE FIFTH CIRCUIT
Ameer Bagley)	CASE NO. _____.
Plaintiff,)	
v.)	
City of Columbia, Columbia City Council,)	SUMMONS
Columbia Fire Department, Fire Chief)	(JURY TRIAL REQUESTED)
Aubrey D. Jenkins, and City Manager)	
Teresa Wilson,)	
Defendants.)	

TO THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

BY: /s/ Jacob J. Modla
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ATTORNEYS FOR PLAINTIFF

May 10, 2022

Columbia, South Carolina.

STATE OF SOUTH CAROLINA) **IN THE COURT OF COMMON PLEAS**
COUNTY OF RICHLAND) **IN THE FIFTH CIRCUIT**
Ameer Bagley) **CASE NO. _____**
Plaintiff,)
v.)
City of Columbia, Columbia City Council,) **COMPLAINT**
Columbia Fire Department, Fire Chief) **(JURY TRIAL REQUESTED)**
Aubrey D. Jenkins, and City Manager)
Teresa Wilson,)
Defendants.)

Plaintiff, Ameer Bagley, by and through his attorneys, complains against the Defendants as follows:

1. Plaintiff is a citizen and resident of Richland County, South Carolina.
2. Defendants City of Columbia (hereinafter, also “City”), City Council (hereinafter, also “Council”), and Columbia Fire Department (hereinafter, also “CFD”) are governmental agencies and political subdivisions of the State of South Carolina, organized under the laws of South Carolina.
3. Upon information and belief, Defendants Aubrey Jenkins (hereinafter, also “Jenkins”) and Teresa Wilson (hereinafter, also “Wilson”) are citizens and residents of Richland County, South Carolina.
4. All of the acts and omissions giving rise to this Complaint and cause of action occurred in Richland County, South Carolina.
5. This Court has both subject matter jurisdiction over the claims and causes of action raised in this Complaint and personal jurisdiction of the above-named Defendant and venue is proper in this Court.

FACTUAL ALLEGATIONS

6. Plaintiff was employed as a Captain with the City of Columbia Fire Department at Station 14. Plaintiff began work on January 24, 2011.

7. Prior to the events discussed herein, Plaintiff maintained an exemplary work record with Defendants; outside of the rare complaint of tardiness, he had not received any formal write-ups or reprimands during his employment.

8. On April 8, 2020, 17 year-old Joshua Ruffin, Plaintiff's relative by marriage, was shot and killed by a City of Columbia Police Officer.¹

9. In the days that followed, a media blitz occurred alleging that Ruffin pulled a firearm on the Officer in question. However, body-cam footage supporting these allegations was not released until June 3, 2020.

10. Plaintiff, like many members of the community, responded emotionally and publicly to the news of Ruffin's death.²

11. On approximately April 9, 2020, Plaintiff published a post to his private Instagram account after learning of Ruffin's death. Plaintiff's post expressed his frustration with the rise of deaths of private citizens by Police Officers. Plaintiff's post did not identify the City of Columbia Police Department or any specific City of Columbia Police Officer.

12. From 2013 to 2020, police officers have killed over one thousand civilians each year in the United States³. Of those killings, African-Americans are over twice as likely to be killed by police as persons of other racial or ethnic groups.⁴ As such, the political climate in the United States has reflected a heightened narrative surrounding these issues for several years.⁵

¹ <https://www.wistv.com/2020/06/24/cpd-officer-joshua-ruffin-case-will-not-face-charges/>

² <https://www.wistv.com/2020/06/03/day-peaceful-protesters-gather-sc-state-house-chanting-justice-josh/>;
https://instagram.com/justice_forjosh

³ Jeffrey A. Fagan & Alexis D. Campbell, *Race and Reasonableness in Police Killings*, BOSTON UNIVERSITY LAW REVIEW, VOL. 100, P. 951, 2020; COLUMBIA PUBLIC LAW RESEARCH PAPER NO. 14-655 (2020).

⁴ Id.

⁵ The South Carolina Supreme Court acknowledged these issues a mere eight weeks prior to Ruffin's death in State v. Spears, in which Chief Justice Beatty wrote in a dissenting opinion expressing: "Spears is an African-American male. Scholars have examined ad nauseam the dynamics between marginalized groups—particularly African-Americans—and law enforcement. African-Americans generally experience police misconduct and brutality at higher levels than other demographics. Consequently, it is no surprise that scholars have also found African-Americans often perceive their interactions with law enforcement differently than other demographics." Spears, 429 S.C. 422, 463 (2020) (citing Charles R. Epp et al., *Beyond Profiling: The Institutional Sources of Racial Disparities in Policing*, 77 Pub. Admin. Rev. 168 (2017); Emily Ekins, The Cato Inst., *Policing in America: Understanding Public Attitudes Toward the Police. Results from a National Survey* (2016); Epp, *supra*, at 174 ("Simply put, investigatory stops of vehicles especially target minority communities and people of color."); Ekins, *supra*, at 30 ("African Americans are about twice as likely as whites to report profanity or knowing someone physically mistreated by the police."); Scottie Andrew, *Police Are Three Times More Likely to Kill Black Men, Study Finds: 'Not a Problem Confined to a Single Region'*, Newsweek (July 23, 2018, 1:41 PM), <https://www.newsweek.com/black-men-three-times-likely-be-killed-police-1037922> ("Across the country, black men are over three times more likely to be killed by police than white men, according to a study . . ."); Maggie Fox, *Police Killings Hit People of Color Hardest, Study Finds*, NBC News (May 8, 2018, 8:00 AM), <https://www.nbcnews.com/health/health-news/police-killings-hit-people-color-hardest-study-finds-n872086> ("While just over half of people killed by police are white, Hispanics and African-Americans are on average younger, the researchers found. And people of black, Hispanic and Native American background are disproportionately killed by police they reported.")).

13. On April 10, 2020, Plaintiff was called to a meeting with Fire Chief Aubrey D. Jenkins and was informed that he was being terminated. Plaintiff was told he was being terminated because his Instagram post allegedly violated the City of Columbia Social Media Policy and displayed conduct “unbecoming of a City Employee.” Furthermore, Chief Jenkins said that Plaintiff’s post and opinions contained therein were reprehensible and reflected negatively on Plaintiff and the City of Columbia Fire Department. Therefore, Plaintiff was terminated by Defendants on April 10, 2020.

14. On November 11, 2020, a grievance hearing was held at Plaintiff’s request to challenge Plaintiff’s termination. In this hearing, Defendant Jenkins admitted that he terminated Plaintiff without conducting a full investigation into the facts or circumstances surrounding Plaintiff’s post, without viewing the post himself, and that, at the time he terminated Plaintiff, he supported Plaintiff challenging the termination decision. By Defendant Jenkins’ testimony, his decision to terminate Plaintiff was rushed and made without knowledge of all relevant facts. In a letter dated November 18, 2020, Plaintiff was informed by the City’s Grievance Committee that the termination decision was upheld and that City Manager, Defendant Wilson, concurred and agreed with the decision to terminate Plaintiff’s employment.

15. Plaintiff was terminated because of his exercise of free speech.

16. Defendants’ termination of Plaintiff because of the content of the social media posts was willful, wanton, malicious, and in derogation of Plaintiff’s constitutional rights.

FOR A FIRST CAUSE OF ACTION

(Violation of First Amendment Rights-Freedom of Speech. 42 U.S.C Section 1983)

17. Plaintiff realleges each and every allegation contained in the above paragraphs as if repeated here verbatim.

18. Plaintiff was terminated as a direct and proximate result of his Instagram post on April 9, 2020.

19. Plaintiff’s speech was about a matter of public concern.

20. Plaintiff’s speech was not made pursuant to his job duties.

21. Plaintiff’s speech violated no lawful policies of the Defendants.

22. Plaintiff was terminated because of his protected speech in violation of 42 U.S.C. Section 1983 which makes it unlawful for a government entity to restrict or otherwise chill individual civil rights.

23. Plaintiff’s interest in First Amendment expression as a citizen outweighs any disruptive effect that the communication may have created.

24. Plaintiff is entitled to damages because of the civil rights violation alleged here which include economic loss, back pay, front pay, back benefits, front benefits, loss of earning capacity, reputational loss, pain and suffering, mental and emotional distress, and stress and anxiety. The Plaintiff is further entitled to an award of attorney's fees and costs, injunctive relief, including reinstatement, pre and post judgment interest, as well as punitive damages.

WHEREFORE, having fully set forth his allegations against Defendants, Plaintiff requests that the Court enter judgment for the following relief:

- a. Compensatory and punitive damages against the Defendants, jointly and severally; and,
- b. An award of his costs and attorney's fees incurred in pursuing this action; and
- c. An Order from this Court ordering Plaintiff reinstated to his former position with Defendants.

Respectfully Submitted,

/s/ Jacob J. Modla
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May 10, 2022

Columbia, South Carolina