

COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

07 MAY 23 AM 8:47

CLERK-ALBUQUERQUE

CIV-07-0506 JH CEG

VIRGIL BEAGLES,

Plaintiff,

v.

ROD ADAIR,

Defendant.

JURY TRIAL DEMANDED

COMPLAINT FOR CIVIL RIGHTS VIOLATIONS

PLAINTIFF VIRGIL BEAGLES, through the undersigned counsel acting on behalf of the American Civil Liberties Union of New Mexico, brings this action pursuant to 42 U.S.C. § 1983, seeking damages to remedy violations of his rights secured by the First and Fourteenth Amendments to the United States Constitution. As set forth with greater particularity below, Mr. Beagles alleges Defendant acted to violate his right to access members of the New Mexico Legislature during the 2007 Regular Session, in retaliation for the exercise of his right to free speech.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331 and 1343, and common law.
2. This Court possesses proper subject matter and personal jurisdiction over the parties.
3. Venue is appropriate in this district.
4. Defendant is a citizen of and resides in New Mexico.
5. The acts complained of occurred in New Mexico. Plaintiff's causes of action arose in New Mexico.

PARTIES

6. Plaintiff Virgil Beagles is a citizen of the United States and a resident of Roswell, New Mexico.

7. Defendant Rod Adair is a citizen of the United States and a resident of Roswell, New Mexico. He is sued in his individual capacity. At all times relevant herein, Adair served as a New Mexico State Senator.

8. With respect to all facts and violations alleged in this complaint, Defendant acted under color of state law.

ALLEGATIONS OF FACT

9. Plaintiff Virgil Beagles is an active member of the Democratic Party of New Mexico and has long been an active and outspoken participant in local and state politics.

10. Defendant is a member of the Republican Party of New Mexico.

11. For several years, Mr. Beagles has regularly authored letters to the editor which have been published in the Roswell *Daily Record*, a local daily newspaper, in which he has been critical of Defendant and his positions on matters of public concern.

12. Mr. Beagles has also authored letters to the editor which have been published in the Albuquerque *Journal*, in which he has been critical of Defendant and his positions on matters of public concern.

THE DEMOCRATIC PARTY LUNCHEON

13. On or about June 6, 2006, Mr. Beagles and Chaves County Commissioner Alice Eppers both were in attendance at a Democratic Party luncheon at the Elks Lodge in Roswell, New Mexico. The party was held in honor of another county commissioner who had recently returned from Iraq.

14. Eppers is a member of the Republican Party and has also been criticized publicly by Mr. Beagles for her positions on issues of public concern.

15. At some point during the luncheon, Eppers tried to sit down at a table at which Mr. Beagles and his friends were sitting.

16. Mr. Beagles told Eppers that she should sit elsewhere and that she was not welcome at their table. Mr. Beagles's statements to Eppers were based on his antipathy for her political activities as a member of the Republican Party in the Chaves County area.

17. On or about June 8, 2006, Eppers contacted the Roswell Police Department and filed a police report falsely alleging that she had been "threatened" by Mr. Beagles at the Democratic Party luncheon. Eppers falsely told the Roswell Police that Mr. Beagles threatened her by stating, "I am going to get you and you had better watch out."

18. At no time has Mr. Beagles ever threatened Eppers and he denies ever making the statement alleged by her.

2007 REGULAR SESSION OF THE NEW MEXICO LEGISLATURE

19. In 2007, the Regular Session of the New Mexico Legislature met from January through March 2007. The Legislature meets in Santa Fe at the Capitol building also known as the "Roundhouse."

20. Mr. Beagles spent many days at the New Mexico Legislature during the 2007 Regular Session because there were bills that were of personal interest to him.

21. Sometime in February 2007, Mr. Beagles was eating lunch in the Legislators' Dining Room in the Roundhouse as a guest of Representative Gail Chasey and Representative Daniel P. Silva.

22. During the meal, Representative Dan Foley, a friend and political supporter of Defendant Adair, saw Mr. Beagles and told a House security guard to demand that Mr. Beagles leave the Dining Room immediately, claiming that Mr. Beagles had "threatened a County Commissioner."
23. When approached by the House security guard, Mr. Beagles, with the support of Representatives Chasey and Silva, refused to leave the Dining Room.
24. The security guard left and then returned shortly thereafter, stating that Representative Foley said that Mr. Beagles could stay only so long as he was with Representatives Chasey and Silva.
25. Representative Foley then called the Office of Governor Bill Richardson to complain about Mr. Beagles.
26. Representative Foley called the Chief Clerk of the House and the Speaker's Office, complaining about Mr. Beagles's presence.
27. On or about February 16, 2007, a few days after the incident involving Representative Foley, Mr. Beagles was sitting in a hallway at the Roundhouse.
28. Defendant Adair approached Mr. Beagles where he was seated in the hallway and began yelling and pointing his finger at him. Adair told Mr. Beagles that he could not be in the Roundhouse and that he must leave immediately or he would have him arrested.
29. Adair alleged to Mr. Beagles that he had "threatened a County Commissioner." Defendant Adair also added in his tirade toward Mr. Beagles that he was an "evil person."
30. As he continued to hound Mr. Beagles, Defendant Adair was led away from him by New Mexico State Senator Diana Duran.

31. Defendant Adair's actions in the hallway directed against Mr. Beagles were videotaped by security cameras installed in the Roundhouse.
32. Shortly thereafter, Defendant Adair contacted Senate security guard Manuel Aliveri and demanded that Mr. Beagles be removed from the Roundhouse. Mr. Aliveri approached Mr. Beagles and told him that he had "threatened a State Senator" and that he would call the State Police if Mr. Beagles did not leave. Mr. Beagles refused to leave.
33. Mr. Aliveri contacted the New Mexico State Police, who interviewed Mr. Beagles but did not remove him from the Roundhouse.
34. Although Mr. Beagles was not removed from the Roundhouse by the State Police, on Adair's orders he was banned from entering the side of the Roundhouse in which the New Mexico Senate is housed.
35. That same day, Mr. Beagles attempted to enter the Senate side of the Roundhouse in order to attend a committee hearing during which a bill of interest to him was being discussed.
36. Mr. Beagles was prohibited from entering the Senate side of the Roundhouse by Senate security guard Manuel Aliveri. Mr. Aliveri was acting on Adair's orders.
37. Mr. Beagles contacted the head of security at the Roundhouse in an unsuccessful attempt to resolve the matter.
38. Prohibited from accessing the Senate committee hearing or State Senators who would vote on the bills in which he was interested, Mr. Beagles left Santa Fe and returned home to Roswell.
39. Defendant's acts proximately caused Plaintiff's damages and injuries in an amount that will be proven at trial.

COUNT I

**VIOLATIONS OF RIGHTS SECURED BY THE FIRST AMENDMENT TO THE
UNITED STATES CONSTITUTION
(42 U.S.C. § 1983)**

40. Plaintiff hereby incorporates by reference each of the allegations set forth in the preceding paragraphs as if realleged fully herein.

41. All of the actions taken by Defendant and referred to herein deprived Plaintiff of rights secured by the Constitution and laws of the United States, specifically his right to free speech and his right to freedom of association guaranteed by the First Amendment to the United States Constitution, as applied to the states through the Fourteenth Amendment.

42. The unlawful treatment that Plaintiff received was carried out by Defendant in retaliation for the exercise of his civil rights secured by the Free Speech Clause of the First Amendment to United States Constitution, as applied to the states through the Fourteenth Amendment.

43. Defendant's acts were intentional, malicious, willful, wanton, obdurate, and in gross and reckless disregard of Plaintiff's constitutional rights.

PRAYER FOR RELIEF

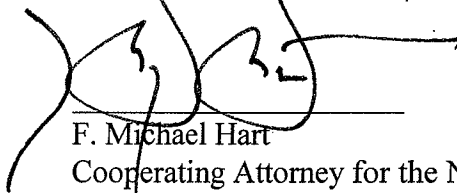
WHEREFORE, Plaintiff prays for judgment as follows:

- A. Compensatory damages and punitive damages against Defendant;
- B. Trial by jury on all issues so triable;
- C. Pre- and post-judgment interest as allowed by law;
- D. Reasonable costs and attorneys fees incurred in bringing this action; and
- E. Such other relief as the Court deems just and proper.

JURY TRIAL DEMAND

Plaintiff hereby demands a trial by jury on all counts so triable.

Respectfully submitted,



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