

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

Retha Pierce,

Plaintiff,

vs.

Kenneth McIver, Charles Williams, Charlene
Taylor, Randy Rizzo and Charlotte Pereira,

Defendants.

Civil Action No.

**COMPLAINT
(jury trial requested)**

The Plaintiff, complaining of the Defendants herein would respectfully show unto this Honorable Court:

JURISDICTION

1. This Action arises under the First and Fourth Amendments to the Constitution of the United States of America, 42 USC §1983, 1985, 1986 and the Laws and Constitution of the state of South Carolina.
2. Subject matter is conferred upon this court by 28 US C §1331 and § 1343. Plaintiff invokes the pendant jurisdiction of this court over all state causes of action.

PARTIES

3. The Plaintiff is a citizen of the United States of America and a resident of the County of Horry, State of South Carolina.

4. That the Defendants are, upon information and belief, citizens and residents of the County of Horry State Of South Carolina. That each of the Defendants was acting under the color and pretense of the laws of the State of South Carolina and the Town of Atlantic Beach. Defendant McIver was acting under his authority as interim town manager. Defendant Williams was acting under His authority as interim town manager. Defendant Taylor was acting under her authority as Mayor pro tem. Defendant Rizzo was acting under his authority as acting chief of police, Defendant Pereira was acting under her authority as town clerk.

FACTUAL ALLEGATIONS

5. That heretofore, Plaintiff was elected by the citizens of the town of Atlantic Beach as their Mayor, pursuant to an election ordered by the South Carolina Supreme Court.
6. That Defendants determined to thwart the will of the citizens of Atlantic Beach and he Supreme Court of the State of South Carolina conspired and agreed together to prevent the Plaintiff from holding the office she had been duly elected to or from performing her duties as the duly elected mayor and to induce her to leave the place where her duties are required to be performed. They determined to overthrow the duly elected government and stage a coup.
7. Plaintiff determined to conduct an assessment and financial accounting of town government. Defendants and cronies and co-conspirators of theirs had for years engaged in activities they do not wish to be brought to light, including unethical, dishonest and illegal behavior that worked to their benefit and the detriment of the town citizens. Defendants determined that they would do whatever was necessary to thwart and prevent the Plaintiff from carrying out this mandate.

8. That thereafter, the Defendants determined that they should you use any means necessary to silence or discredit the Plaintiff and otherwise prevent her from holding her office or from performing the duties thereof, and to induce her to leave the place where her duties as an officer are required to be performed, including entrapment and physical interference.
9. That on January 26, 2009, Defendant McIver arranged for the Plaintiff to meet him at town hall. He agreed that she and town council as the policymaking body of the town should have an office in town hall and designated a room for that purpose. They agreed to meet again on January 28, 2009.
10. That on January 27, 2009, Plaintiff was at town hall, Defendant Pereira called for Defendant Taylor to come to town hall. Defendant Taylor confronted the Plaintiff getting in her face, yelling and cursing her, telling the Plaintiff she would not have an office and causing the Plaintiff to fear for her physical safety. Defendants had filled the office set-aside for the Plaintiff with boxes and file drawers.
11. That subsequently on January 28, 2009, Plaintiff met with Defendant McIver. She gave him a memo protesting what occurred on January 27, 2009 with the actions of Defendant Taylor. Defendant McIver gave the memo to Defendant Pereira to copy. She then flew into a rage and said she would not do anything for the Plaintiff. She began to scream don't ever ask me to do anything again for her screaming that the Plaintiff mentioned her name in the memo. Defendant McIver then instructed the Plaintiff to leave town hall where she was attempting to conduct town business. When the Plaintiff offered to relocate to another part of town hall while the Defendants calmed down, they placed her in handcuffs and physically removed her from town hall.

12. That subsequently Defendants have locked the Plaintiff out of town hall, only allowing her in to get her mail.

FOR A FIRST CAUSE OF ACTION
(Conspiracy to Prevent Officer)
42 USC 1985

13. Plaintiff herein repeats and reiterates the allegations heretofore alleged as though set forth herein verbatim.
14. That Defendants with third parties conspired to prevent, by force, intimidation, and threat, the Plaintiff from accepting and holding her office as Mayor of the town of Atlantic Beach and from discharging her duties as Mayor, and to induce her, as the Mayor, to leave the place, where her duties as Mayor are required to be performed, to injure her in her person on account of her lawful discharge of the duties up her office, and to deprive the plaintiff of the equal protection, privileges and immunities of and under the laws.
15. That as a direct result and consequence of the Defendants' violation of the Plaintiff's civil rights, the Plaintiff was deprived of her liberty and freedom of movement, she underwent loss of income, she further suffered extreme emotional distress and anguish, public humiliation and embarrassment, damage to her reputation and standing in the community, and diminution of her citizenship.

FOR A SECOND CAUSE OF ACTION

(Freedom of Movement and Right to Travel)

16. Plaintiff herein repeats and reiterates each and every allegation contained in the preceding paragraphs as though set forth herein verbatim
17. Defendants deprived the Plaintiff of her right to liberty and freedom of movement, by limiting and denying her reasonable access to public offices which are her responsibility.
18. That as a direct result and consequence of the Defendants' violation of the rights of the Plaintiff, Plaintiff suffered lost income, Plaintiff was deprived of her liberty and freedom of movement, underwent extreme emotional distress and anguish, public humiliation and embarrassment, damage to her reputation and standing in the community and her personal worth and dignity.

FOR A THIRD CAUSE OF ACTION

(Violation of First Amendment Rights)

(Freedom of Speech and Right to Protest)

19. Plaintiff herein repeats and reiterates each and every allegation contained in the preceding paragraphs as those set forth herein verbatim.
20. Defendants did violate the Plaintiff's Rights under the First and 14th Amendments to the United States Constitution in that the Defendants did punish the Plaintiff because of her protest against their actions and her speech.

21. That as a direct result and consequence of the Defendants' violation of the Plaintiff's civil rights, the Plaintiff was deprived of her peaceful use and enjoyment of the property of her office, she underwent: physical pain, discomfort and distress, had to undergo medical treatment resulting in medical bills, and loss of income, she further suffered extreme emotional distress and anguish, public humiliation and embarrassment, damage to her reputation and standing in the community, and diminution of her citizenship.

FOR A FOURTH CAUSE OF ACTION
(Civil Conspiracy)

22. Plaintiff herein repeats and reiterates the allegations heretofore alleged as though set forth herein verbatim.
23. That the Defendants acting together and with others conspired to injure the Plaintiff by committing unlawful acts and/or by committing lawful acts by unlawful means.
24. That acts were taken in furtherance of the conspiracy.
25. That as a result of the conspiracy and the acts taken in furtherance thereof Plaintiff was terrorized, underwent extreme emotional distress and has suffered as heretofore set forth.

FOR A FIFTH CAUSE OF ACTION
(Failure to Prevent Deprivation of Rights)
42 USC 1986

26. Plaintiff herein repeats and reiterates the allegations heretofore alleged as though set forth herein verbatim.

27. That Defendants were in a position to prevent others who wished to deprive the Plaintiff of the equal protection, privileges and immunities of and under the laws, and failed and refused to do so.
28. That as a direct result and consequence of the violation of the Plaintiff's civil rights, aloud by defendants, the Plaintiff was deprived of her liberty and freedom of movement, she underwent loss of income, she further suffered extreme emotional distress and anguish, public humiliation and embarrassment, damage to her reputation and standing in the community, and diminution of her citizenship.

WHEREFORE, Plaintiff prays for judgment against the Defendants for her actual and punitive damages, for the cost of this action including attorney's fees, and for such other and further relief as this Court may deem just and equitable.

By: s/ William Gary White

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