

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

CACHET CURRIE)	
)	
PLAINTIFF,)	Case No.
)	
v.)	JURY TRIAL DEMANDED
)	
CITY OF FERGUSON, MISSOURI,)	
)	
and)	
)	
HARRY DILWORTH)	
)	
DEFENDANTS.)	

COMPLAINT

PRELIMINARY STATEMENT

1. On December 10, 2014, Plaintiff Cachet Currie witnessed police activity that warranted recording. As she was capturing the events on her cellular phone recorder, Defendant Dilworth directed her to stop. When Plaintiff did not stop, she was arrested and transported to the Ferguson Police Department. Subsequently she was charged with Refusal to Disburse and Disorderly Conduct in violation of the Ferguson Municipal Code. The charges were dismissed on October 15, 2015.
2. This is a civil action for violation of Ms. Currie’s rights under the First, Fourth and Fourteenth Amendments to the United States Constitution, actionable pursuant to 42 U.S.C. §1983.

PARTIES

3. Plaintiff Cachet Currie is, and at all times material hereto has been, a resident of

the City of St. Louis, State of Missouri.

4. Defendant City of Ferguson, Missouri, is a body politic and corporate organized and existing pursuant to Missouri law.
5. Defendant Harry Dilworth is a sworn peace officer and employed as a Sergeant of Police by Defendant City. All of Defendant Dilworth's actions set forth in this Complaint were under color of law. Harry Dilworth is sued in his individual capacity.

JURISDICTION AND VENUE

6. This cause is brought pursuant to 42 U.S.C. §1983. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 1343. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391(b), since the Defendant is located, and all of the incidents giving rise to this suit occurred, in this judicial district.

FACTS

7. On December 10, 2014, Plaintiff was a passenger in a car when she noticed that the police had made a traffic stop of a group of young people on Dunn Road.
8. The driver maneuvered to the area of the stop so that the occupants could observe the police action.
9. Plaintiff exited the car and began to record the police activity.
10. The traffic stop and the activities of Plaintiff that are described herein occurred within the city limits of Florissant, Missouri, and outside of the city limits of Ferguson.
11. One or more Ferguson police officers, including Defendant Dilworth, directed her to stop recording and return to her car.

12. When Defendant Dilworth, or other officers, gave the command, Plaintiff was across the street from the police activity, had not made any statements to the police or to anyone else involved in the police activity, and was not a threat or a hindrance to the police. Plaintiff was simply recording the event.
13. When the officer or officers directed her to stop and return to her car, Plaintiff repeatedly asked whether she was violating any law.
14. No officer informed Plaintiff of any lawful reason for his command despite her repeated requests.
15. As Defendant Dilworth approached Plaintiff, she put her phone into her pocket.
16. Dilworth immediately placed his hand into Plaintiff's pocket and seized her phone.
17. Defendant Dilworth arrested Plaintiff.
18. Police officers transported Plaintiff to the Ferguson Police Department building where Defendant Dilworth interrogated her.
19. Defendant Dilworth demanded access to Plaintiff's phone database and when she declined to provide her passcode, Dilworth threatened that she would never see her phone again because she could not prove it was hers.
20. Plaintiff responded that the phone was in fact hers and pointed out that Dilworth had taken it from her pocket.
21. Shortly after being released, Plaintiff contacted the Ferguson police in an effort to recover her phone. Following email correspondence with the interim Chief of Police, the Chief delivered to Plaintiff her phone.

22. When the interim Chief of Police met with Plaintiff to return her phone, he apologized to her for the seizure of her phone and the arrest should not have occurred.

23. On November 21, 2014, this Court entered an Order by Consent:

IT IS HEREBY ORDERED that Defendant the City of Ferguson, Missouri, its officers, employees, or agents, and those acting on its behalf, shall not enforce or threaten to enforce any rule, policy, or practice that grants law enforcement officers the authority or discretion to arrest, threaten to arrest, or interfere with any individual, including any member of the media or member of the public photographing or recording in public places unless that person is threatening the safety of other or physically interfering with the ability of law enforcement to perform their duties. *Hussein v. County of St. Louis*, et. al., 4:14CV01410 JAR.

24. The Order by Consent was in effect on December 10, 2014 when Plaintiff was arrested for recording Ferguson police activity.

25. The Court retains jurisdiction to enforce its order.

COUNT I

**UNLAWFUL SEIZURE IN VIOLATION OF THE FOURTH AND
FOURTEENTH AMENDMENTS TO UNITED STATES CONSTITUTION,
COGNIZABLE UNDER 42 U.S.C. § 1983 AGAINST DEFENDANT HARRY
DILWORTH**

For Count I of her cause of action against Defendant Harry Dilworth, Plaintiff states:

26. Plaintiff incorporates by this reference the allegations contained in paragraphs 1

through 25 as though fully set forth in this Count I.

27. Plaintiff committed no offense and Defendant Dilworth did not have probable cause to believe that Plaintiff had committed an offense.
28. The seizure of Plaintiff and her telephone was, therefore, unreasonable and in violation of her rights secured by the Fourth Amendment to the United States Constitution.
29. When Defendant Dilworth secured Plaintiff's hands behind her back in handcuffs, he closed the handcuffs tightly and thereby injured Plaintiff's wrists. That use of force was unreasonable and excessive.
30. As a result of the acts of Defendant Dilworth, Plaintiff suffered damages to include being seized and deprived of her freedom, being detained in custody, pain to her wrists, deprivation of her personal property, and emotional distress.
31. The acts of Defendant Dilworth were intentional, wanton, malicious, oppressive, reckless, and/or callously indifferent to the rights of Plaintiff, thus entitling Plaintiff to an award of punitive damages against Defendant Dilworth.
32. If Plaintiff prevails she is entitled to attorney fees pursuant to 42 U.S.C. §1988.

WHEREFORE, Plaintiff prays for judgment against Defendant Harry Dilworth in an amount that is fair and reasonable, for punitive damages and for attorney fees and costs and for such further relief as is just in the premises.

COUNT II

**UNLAWFUL SEIZURE IN VIOLATION OF THE FIRST AND
FOURTEENTH AMENDMENTS TO UNITED STATES CONSTITUTION,
COGNIZABLE UNDER 42 U.S.C. § 1983 AGAINST DEFENDANT HARRY
DILWORTH**

For Count II of her cause of action against Defendant Harry Dilworth, Plaintiff states:

33. Plaintiff incorporates by this reference the allegations contained in paragraphs 1 through 32 as though fully set forth in this Count II.
34. Plaintiff was engaged in lawful First Amendment activities when she observed and recorded the actions of Defendant Dilworth and other police officers who were performing their duties in public.
35. Defendant Dilworth arrested Plaintiff, seized her phone, detained her and initiated charges against her in retaliation for her exercise of her rights under the First Amendment.
36. Defendant Dilworth was motivated to arrest, detain, seize her property and charge Plaintiff because she recorded Defendant Dilworth and other police officers.
37. Defendant did not have probable cause to interrupt, arrest, detain, seize her property, or charge Plaintiff and the intended effect of doing so was to chill Plaintiff's rights under the First Amendment.
38. Interrupting, arresting, detaining, seizing the property of, and charging a person such as Plaintiff would chill a person of ordinary firmness from observing and recording police activity.
39. As a result of the acts of Defendant Dilworth, Plaintiff suffered damages to include being seized and deprived of her freedom, being detained in custody, pain to her wrists, and emotional distress.
40. The acts of Defendant Dilworth were intentional, wanton, malicious, oppressive, reckless, and/or callously indifferent to the rights of Plaintiff, thus entitling Plaintiff

to an award of punitive damages against Defendant Dilworth.

41. If Plaintiff prevails she is entitled to attorney fees pursuant to 42 U.S.C. §1988.

WHEREFORE, Plaintiff prays for judgment against Defendant Harry Dilworth in an amount that is fair and reasonable, for punitive damages and for attorney fees and costs and for such further relief as is just in the premises.

COUNT III

**UNLAWFUL SEIZURE IN VIOLATION OF THE FOURTH AND
FOURTEENTH AMENDMENTS TO UNITED STATES CONSTITUTION,
AND RETALIATION IN VIOLATION OF THE FIRST AND FOURTEENTH
AMENDMENTS TO THE UNITED STATES CONSTITUTION COGNIZABLE
UNDER 42 U.S.C. § 1983 AGAINST DEFENDANT CITY OF FERGUSON**

For Count III of her cause of action against Defendant City of Ferguson, Plaintiff states:

42. Plaintiff incorporates by this reference the allegations contained in paragraphs 1 through 41 as though fully set forth in this Count III.

43. Defendant City of Ferguson has and has had a custom and usage of taking law enforcement action, including making arrests and pursuing charges against individuals, like Plaintiff, who are lawfully assembled and/or engaged in activity protected by the First Amendment to the United States Constitution.

44. Defendant City of Ferguson is and has been aware that its police officers take law enforcement action against individuals, like Plaintiff, who are lawfully assembled and/or engaged in activity protected by the First Amendment to the United States Constitution and has been deliberately indifferent in its duty to correct, supervise, control and, when appropriate, discipline its agents, officers and employees when they have committed acts that violate the constitutional rights of those they

encounter.

45. Defendant City of Ferguson, rather than taking affirmative steps to stop the unlawful practices of its officer, agents and employees, has ratified the malfeasance by prosecuting alleged violations of Ferguson ordinances against people who have engaged in lawful and/or constitutionally protected activity, like Plaintiff, when the City knew or should have known that the charges were without merit.

46. As set forth in paragraph 23, supra, the City of Ferguson has been ordered to refrain from actions that infringe on the First Amendment rights of civilians who record police activities occurring in public.

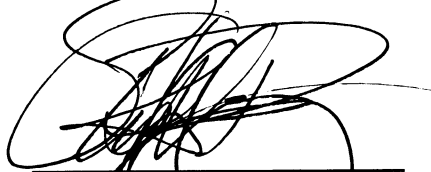
47. As a result of the acts of Defendant City of Ferguson, Plaintiff suffered damages to include being seized and deprived of her freedom, being detained in custody, pain to her wrists, and emotional distress.

48. If Plaintiff prevails she is entitled to attorney fees pursuant to 42 U.S.C. §1988.

WHEREFORE, Plaintiff prays for judgment against Defendant City of Ferguson in an amount that is fair and reasonable, for attorney fees and costs and for such further relief as is just in the premises.

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Respectfully submitted
October 19, 2015

A handwritten signature in black ink, appearing to read 'S. Ryals', is written over a horizontal line. The signature is stylized and somewhat illegible due to the cursive nature of the handwriting.

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