

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

North Baton Rouge Matter Black Youth Project 100;
New Orleans Workers' Center for Racial Justice; American
Civil Liberties Union of Louisiana; Louisiana Chapter
of the National Lawyers Guild

Plaintiffs,

-vs-

City of Baton Rouge; Baton Rouge Police Department;
Carl Dabadie, Jr., in his official capacity as Chief of the
Baton Rouge Police Department; Louisiana Department of
Public Safety; Louisiana State Police; Col. Michael
Edmonson, in his official capacity as Superintendent of the
Louisiana State Police; East Baton Rouge Sheriff's
Department; Sid J. Gautreaux III, in his official capacity as
Sheriff of the East Baton Rouge Sheriff's Department; Kip
Holden in his official capacity as the Mayor
of East Baton Rouge Parish; Hillar C. Moore, III, in his
official capacity as District Attorney for East Baton Rouge
Parish,

Defendants.

CIVIL ACTION
NO.:

Motion for
Temporary
Restraining Order
and Preliminary
Injunction

Oral Argument
Requested

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs, by their undersigned attorneys, for their Complaint, allege as follows:

Nature of Action

1. Our Nation is built on a foundation of free speech, dissent, and protest; since our very founding, the American people have taken to the streets and sidewalks to make their voices heard on matters of public concern.

2. Further, the right to be free from unreasonable seizure by the government is fundamental to the proper functioning of our criminal justice system, and reflects the Framers'

6. These actions have been designed to intimidate protestors and deter the continued exercise of First Amendment rights. They amount to a widespread and acute ey u (s)-1 (p1on A)2 (m)

- g. Arresting individuals for failure to disperse despite giving individuals inadequate notice or opportunity to leave;
- h. Entering a private home and unlawfully searching and seizing guests without probable cause;
- i. Engaging in widespread unreasonable searches and seizures of individuals arrested without probable cause and in bad faith;
- j. Failing to provide Miranda warnings to individuals arrested or to explain the charges against them; and
- k. Responding to nonviolent activity with unconstitutional levels of force, including physically tackling nonviolent protestors and using mace, taser charges, and/or pepper spray on nonviolent protestors.

8.

others not before the Court

harassment, and violence. For over 60 years, the ACLU of Louisiana has been at the forefront of the fight to preserve the civil liberties of all of the people of Louisiana, fighting for the First Amendment, for racial justice, and for due process and privacy rights. The ACLU of Louisiana has 2,700 members, some of whom were at the protests on July 6 and 10th. The ACLU of Louisiana's employees, including Candice Sirmon and Lily Ann Ritter, attended the protests on July 6 and 10 and witnessed the events as legal observers. They were also told by law enforcement to unlawfully disperse and were threatened with arrest. The ACLU of Louisiana's members and employees intend to continue engaging in protest and the monitoring of constitutional rights, but fear the continued violation of their constitutional rights, enforcement of invalid restrictions on their protected activity, and the use of excessive force by law enforcement.

15. Plaintiff Black Youth Project 100 ("BYP100") is an activist member-based organization of Black 18-35 year olds, dedicated to creating justice and freedom for all Black people. BYP100 has a chapter in New Orleans, Louisiana. BYP100 works to create justice and freedoms for all Black people through building a collective focused on transformative leadership development, direct action organizing, advocacy and education. BYP100 trains young black activists in direct action grassroots organizing skills, so they can build the power needed to transform our communities. BYP100 runs campaigns using on the ground and digital tactics towards the goal of ending the criminalization of Black youth, racial profiling and police brutality. BYP100 members have attended protest in Baton Rouge Louisiana over the past week in protest over the murder of Alton Sterling.

16. Plaintiff the National Lawyers Guild is the nation's oldest and most extensive network of public interest attorneys and human rights attorneys and legal workers in the United States. The Louisiana Chapter of the National Lawyers Guild consists of approximately 50 members including Louisiana licensed attorneys and legal workers from across the state, in addition to law school affiliate chapters at Southern University Law Center, Loyola University College of Law, and Tulane University Law School. The Guild also has more than 250 individual Louisiana allies and more than 200 trained Legal Observers that wear neon green hats to monitor and document police misconduct at demonstrations. The Guild has and is coordinating legal support for over 150 people arrested for protesting against the killing of Alton Sterling during the weekend of July 19, 2016 and has been and is operating a 24/7 Legal Hotline operated by licensed attorneys. The Guild provides legal support to social movements and works to ensure that human rights are respected and protected.

17. Plaintiff the New Orleans Workers' Center for Racial Justice ("NOWCRJ") is a non-profit organization founded in the aftermath of Hurricane Katrina working to raise the ()5 (la-2 (s)-

and Ricky left the protest to avoid indiscriminate arrest and aggressive police practices by a highly militarized police force in violation of their First Amendment rights. NOWCRJ Staff Attorneys were also present at the July 10 action, documenting the events as Legal Observers and then as pro bono attorneys helping secure arrested protesters' release from jail. The imminent threat of indiscriminate arrest and subjection to violent police practices violated their First Amendment rights and interrupted their abilities on behalf of NOWCRJ to monitor and defend protesters from unconstitutional law enforcement actions. NOWCRJ's members and staff intend to continue to engage in lawful, peaceful collective public action and ~~monitor~~ defend the constitutional rights of others to do so. Given Defendant's' previous actions since the murder of Alton Sterling, they experience reasonable fear over ongoing violation of their constitutional rights, enforcement of invalid restrictions ~~on~~ their protected activity, indiscriminate arrest, and

racially indiscriminate brutality of the Baton Rouge Police Department. Members have a deep

arrests in Baton Rouge over the past week. Defendant Sid J. Gautreaux, III is the Sheriff of the East Baton Rouge Sheriff's Department, and is sued in his official capacity.

24. Defendant Hillar C. Moore, III, is sued in his official capacity as the party responsible for enforcing state criminal laws in the parish of East Baton Rouge. See La. Const. Art. 5, § 826 ("Except as otherwise provided by this constitution, a district attorney, or his designated assistant, shall have charge of every criminal prosecution by the state in his district.").

25. All actions by Defendants, their officers, employees, or agents, described herein were taken under color of law.

FACTS

26. On July 5, 2016, Alton Sterling, a Black man accused of no crime, was shot a point-blank range by officers with the Baton Rouge Police Department after being tackled and physically detained, on his back, by the two officers involved.

27. Thousands of members of the Louisiana community have responded with anger about the death of Mr. Sterling in particular, as well as broader patterns of aggressive policing and racial disparities evident in law enforcement officers' use of force across the United States. As a result, there have been demonstrations on the public streets, sidewalks, and medians of Baton Rouge since the video images of Mr. Sterling's death came to light last week.

28. At these demonstrations, protestors are voicing their opinions about such issues of public concern as the relationship between police and the community; the frequency with

which police officers shoot unarmed Black men; and the militarization of local police forces, among other topics. The protests have been overwhelmingly peaceful and non-violent.

29. Defendants' response to the demonstrations has included ordering peaceful

individuals under 18 were held in an adult facility, protestors were being held in general detention, approximately 40 to 50 protestors were being held in single small cells, caged together inhumanely, and protestors were threatened and harassed, with one report of a sheriff stating “one of you will be shot tonight.” In addition, individuals in need of immediate medical attention were being denied medical attention, including an individual with the symptoms of a concussion, individuals who came into the jail with blood on them, and individuals in need of insulin. See Decl. of Willa Conway.

CAUSES OF ACTION

COUNT I

Freedom of Speech and Assembly

Violation of First and Fourteenth Amendments to the U.S. Constitution and Article I, Sections Seven and Nine of the Louisiana Constitution

36. Plaintiffs repeat, re-allege, and incorporate by reference the allegations in the foregoing paragraphs of this Complaint ~~set~~ forth here verbatim.

37. The First Amendment to the U.S. Constitution prohibits abridgement of freedom of speech and assembly; the First Amendment is applied to the states through the Fourteenth Amendment. Article I, Section Seven of the Louisiana ~~Constitution~~ prohibits the curtailment or restriction of the freedoms of speech and of the press and guarantees every person the right to “speak, write, and publish his sentiments on every subject.” Article I, Section Nine of the Louisiana Constitution protects peaceful assembly.

38.

unconstitutional conduct. The Defendants failed to train police officers about the constitutional rights of individuals to peaceably associate and gather in public places including sidewalks and public areas adjacent to roadways and failed to prevent police officers from violating these rights, despite actual or constructive knowledge of ongoing and repeated violations.

43. Upon information or belief, unless restrained by this Court, Defendants will

2. Issue a temporary restraining order (and thereafter Preliminary and Permanent Injunctive Relief) against Defendants and their officers, employees, and/or agents, and those acting on their behalf or in concert with them:
 - a. Prohibiting Defendants, their officers, employees, or agents, and those acting on their behalf or in concert with them from ordering individuals who are violating no law to refrain from gathering on public sidewalks and other public fora, or threatening or effecting arrest for compliance.
 - b. Enjoining Defendants, their officers, employees, or agents, and those acting on their behalf or in concert with them from stopping, citing, and dispersing individuals for allegedly "obstructing vehicular traffic" when in a public place and not actually obstructing vehicular traffic or when not creating a risk of danger to pedestrians or vehicular traffic.
 - c. Prohibiting Defendants, their officers, employees, or agents, and those acting on their behalf or in concert with them from engaging with gatherings, organized protests, or individuals engaged in protected First Amendment activity unless each carries on their person clearly visible personal identification, including accurate name, law enforcement agency, and identifying number.
 - d. Prohibiting Defendants, their officers, employees, or agents, and those acting on their behalf or in concert with them from utilizing chemical agents on such gatherings unless as a last resort to prevent an immediate threat to public safety, and unless any use is preceded by clear and unambiguous warnings, and an adequate opportunity for all protestors to disperse without risk of arrest or entrapment.
 - e. Prohibiting Defendant Moore, his officers, employees, or agents, and those acting on his behalf or in concert with him from initiating or continuing criminal prosecutions against protestors for obstruction or failure to appear in the absence of documented evidence that they actually impeded traffic and that they had adequate notice and opportunity to disperse without threat of arrest. Additionally prohibiting Defendant Moore and his officers, employees, or agents and those acting on his behalf or in concert with him from initiating or continuing criminal prosecutions against protestors for inciting a riot for the simple act of engaging in a protest.

- f. Prohibiting Defendants, their officers, employees, or agents, and those acting on their behalf or in concert with them from utilizing chemical agents on such gatherings unless as a last resort to prevent an immediate threat to public safety, and unless any use is preceded by clear and unambiguous warnings, the approval of the Governor of the State of Louisiana, and an adequate opportunity for all protestors to disperse without risk of arrest or entrapment.
3. Award Plaintiffs nominal damages,
4. Award Plaintiffs costs, including reasonable attorneys' fees, pursuant to 42 U.S.C. § 1988 or any other applicable law; and
5. Grant Plaintiffs such other and further relief as is just and proper under the circumstances.

PLAINTIFFS REQUEST TRIAL BY JURY ON ALL ISSUES SO TRIABLE.

Dated: July 13, 2016

Respectfully Submitted,

/s/ Ronald L. Wilson
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