

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

RODRICK JACKSON,

Plaintiff,

vs.

**CITY OF HEARNE, JOHN NARON, PEE
WEE DRAKE, RUBEN GOMEZ,
EMMETT AGUIRRE, MARGARET
SALVAGGIO, BRYAN F. "RUSTY"
RUSS, JR., THOMAS WILLIAMS,
STEPHEN YOHNER, PATRICIA
MENDOZA, STEPHANIE RODRIGUEZ,
and TANGERLIA TAYLOR-FELTON,**

Defendants

Case No. 6:18-cv-00015

ORIGINAL COMPLAINT

NOW COMES Rodrick Jackson, the Plaintiff herein, stating and alleging as follows:

Jurisdiction and Venue

1. This Court has jurisdiction under 28 U.S.C. § 1331 because the Plaintiff asserts federal claims under 42 U.S.C. § 1983.
2. Venue is proper in this Court because the Defendants reside or are located in Robertson County, Texas.

Parties

3. Plaintiff Rodrick Jackson is a resident of Hearne, Texas and a member of the Hearne City Council.
4. Defendant City of Hearne is a municipality organized under the laws of the State of Texas.

5. Defendant John Naron is the city manager of the City of Hearne.
6. Defendant Pee Wee Drake is a former city manager of the City of Hearne.
7. Defendant Ruben Gomez is the mayor of the City of Hearne.
8. Defendant Emmett Aguirre is a member of the Hearne City Council.
9. Defendant Margaret Salvaggio is a member of the Hearne City Council.
10. Defendant Bryan F. “Rusty” Russ, Jr. formerly served as the city attorney for the City of Hearne.
11. Defendant Thomas Williams is the police chief for the City of Hearne.
12. Defendant Stephen Yohner is a former police sergeant for the City of Hearne.
13. Defendant Patricia Mendoza is the former municipal court clerk for the City of Hearne.
14. Defendant Stephanie Rodriguez is a resident of the City of Hearne.
15. Defendant Tangerlia Taylor-Felton is the City Attorney *Pro Tem* for the City of Hearne, specially assigned to prosecute the Plaintiff in *State of Texas v. Rodrick Jackson*, Cause No. CS-28245, Hearne Municipal Court. She is sued in her official capacity only, and only for injunctive relief.

FACTS

16. Defendants Drake, Gomez, Aguirre, and Russ are longtime members of the corrupt ruling class in Robertson County, Texas that is known locally as the “Booger County Mafia.” From Reconstruction until after the Civil Rights reforms of the 1960s, white and Hispanic officials ran local government in the City of Hearne and Robertson County for their own personal benefit, with little or no consideration for black residents. Members of the Booger County Mafia were generally immune from criminal prosecution – even to the point of getting away with murder – because local prosecutors were also members of the Mafia. In 1997, for

example, Defendant Aguirre killed David Alvarado by running over him with a vehicle shortly after Mr. Alvarado inflicted a beating on Defendant Aguirre in a local bar. Then-District Attorney John Paschall, a member of the Mafia (and a shameless racist), dismissed all charges. Mr. Paschall, in turn, had to surrender his law license in 2016 after he plead guilty to a felony charge of pilfering money from an elderly lady and her estate over a period of more than 20 years.

17. The Plaintiff was a Baptist minister, and like many other African-American residents of Hearne, he had grown tired of the corruption in city and county government. In 2015, while he was still a private citizen, he began requesting city records via the Texas Public Information Act and publicizing his findings. On July 21, 2015, the Plaintiff submitted a request for utility billing records pursuant to the Texas Public Information Act. The same day, city employees shut off the electricity to his house, even though the Plaintiff's utility payments were not overdue. In contrast, the local school board president and sister of Defendant Gomez, Sylvia Montelongo, had written nearly \$50,000 worth of hot checks to the city for utility bills but her service was never disconnected. On information and belief, Defendant Drake directed city employees to shut off the Plaintiff's electricity in retaliation for his records requests and the public embarrassment that they caused city officials. The Plaintiff's electricity was not reconnected until the following day, when he threatened to contact a lawyer. Defendant Drake retired later that month.

18. From an earlier public information request, the Plaintiff had already learned that Defendant Drake's government-issued credit card was used to buy hundreds of dollars worth of football tickets for a city councilman, while thousands of dollars worth of city funds were spent on Christmas gifts, including several flat-screen televisions and a tablet computer. Around October 15, 2015, Defendant Drake was indicted for other instances of misappropriating city funds. The following week, Defendant Gomez and a majority of the city council voted to rehire

Defendant Drake, apparently as a show of support. Defendant Drake later reached a plea agreement that required him to repay the misappropriated funds plus \$1,000 in court costs, and then he retired again.

19. In early 2016, the Plaintiff was a promoter and signer of an initiative petition that was intended to require a forensic audit of city finances. The Plaintiff incorporates herein by reference Milton Johnson's ANSWER, GENERAL DENIAL, COUNTER-PETITION, AND CROSS-PETITION in *City of Hearne v. Milton Johnson*, which is currently pending before this Court as Case No. 6:16-cv-00284-RP. As set forth in that document, Defendant Russ unlawfully impeded the Plaintiff's efforts to vote on a forensic audit of city finances. On information and belief, the Plaintiff alleges that Defendant Russ acted at the behest of Defendants Gomez, Drake and Aguirre and/or they ratified Defendant Russ's illegal acts.

20. The Plaintiff ran for city council in 2016 on a platform of cleaning up corruption and supporting a forensic audit of city hall, and he infuriated the Mafia by defeating an incumbent on May 7, 2016. About two weeks later, Defendant Naron was hired as interim city manager for the City of Hearne, and he quickly aligned himself with the Mafia. Thereafter, the Plaintiff had frequent and public conflicts with Mafia cronies at city hall, particularly Defendants Naron and Gomez. The political fights between the Plaintiff and Defendants Naron and Gomez often appeared in the pages of local newspapers. The Plaintiff sought to terminate Defendant Naron from the city, and at one point Defendant Naron asked the city council to publicly "censure" the Plaintiff. With the support of Defendants Gomez, Aguirre and Salvaggio, Defendant Naron used city resources to research and support an effort to recall the Plaintiff from the city council. The recall effort ultimately failed.

21. Early in the summer of 2016, Defendant Rodriguez evicted her 16-year-old daughter (hereinafter "Female Minor") from her home after learning that the girl had been sleeping with a

boy from school. The Plaintiff had known Defendant Rodriguez and Female Minor for many years, and the Plaintiff and his ex-wife had treated Female Minor like she was their own daughter. None of Female Minor's relatives would allow her to stay with them, so the Plaintiff agreed that she could stay with him temporarily. He conferred with a local constable to determine what he would need to do to get legal custody of Female Minor.

22. The same evening that the Plaintiff conferred with the constable, Female Minor left the Plaintiff's home and told people that the Plaintiff had sexually molested her. The Hearne Police Department was notified, and Defendant Yohner was the senior responding officer. Female Minor was later taken to Scotty's House in Bryan, where she was interviewed on video by a caseworker. The Plaintiff was never interviewed or questioned by any investigator or law enforcement official.

23. The allegations against the Plaintiff were referred to the Texas Rangers and Robertson County District Attorney Coty Siegert, and Mr. Siegert rejected the case.

24. After Mr. Siegert rejected the case, a Hearne police lieutenant told the Plaintiff that the matter would be dropped. About two weeks later, however, Defendant Williams informed the Plaintiff that he would be charged with Class C misdemeanor assault based on the allegations of Female Minor. On information and belief, the Hearne Police Department had never before and has never since charged a defendant with a Class C misdemeanor (*i.e.*, the equivalent of a traffic ticket) after the local district attorney rejected a charge of sexually abusing a minor.

25. Defendant Thomas told the Plaintiff that the city had changed its decision about filing charges because of "pressure from the family," and he was almost certainly referring to pressure from Defendant Rodriguez. Based on his own personal knowledge that he has gained while serving on the city council, the Plaintiff alleges and states that Defendant Naron has operational control of the police department and routinely interjects himself into its internal

decisions. The remainder of this paragraph is alleged on information and belief. After the Hearne police indicated that the case against the Plaintiff would be dropped, Defendant Rodriguez contacted Defendant Naron, who was eager to retaliate against the Plaintiff. Defendant Rodriguez was ashamed of her own treatment of Female Minor, and she knew she could distract from that issue by trying to shift blame to the Plaintiff. She further knew that Defendant Naron would be all too willing to help. Defendant Naron directed the police to charge the Plaintiff even though no other defendant would have been charged under those circumstances.

26. The Plaintiff was cited for misdemeanor assault on July 27, 2016, and he filed a demand for speedy trial on December 22, 2016. Shortly thereafter, Madisonville Municipal Judge Tommy Starns was assigned as a visiting judge to preside over the case. The undersigned represented (and still represents) the Plaintiff in that case. On April 22, 2017, the undersigned filed a motion to compel the government to produce exculpatory evidence, particularly information surrounding the resignation of Defendant Yohner, the officer who investigated the Plaintiff, as well as a copy of the videotaped interview of Female Minor. In a May 1, 2017 email to the undersigned, Judge Starns wrote as follows:

The videotaped interview conducted by Scott's House is not subject to public release. Please refer to letter from Kelly McWethy, Texas Assistant Attorney General, to Counsel for City of Hearne, dated 10-12-16.

The information concerning the suspension of Sgt. Yohner is not available at this time. The City of Hearne is waiting on a ruling from the Texas Attorney General concerning the release of public information of Sgt. Yohner's suspension. Please refer to letter from City of Hearne to Ken Paxton, Texas Attorney General, dated 4-18-17.

None of the foregoing information had been provided to Judge Starns by the parties, ergo he necessarily obtained it ex parte. Furthermore, the letters that he referenced were in response to public information requests and had nothing to do with the production of evidence. At a pre-trial hearing a few days later, Judge Starns admitted that he obtained the information from ex parte

communications with Defendant Mendoza. Judge Starns recused himself upon request from counsel for the Plaintiff.

27. Following the recusal, the Plaintiff was informed that Defendant Yohner and Defendant Mendoza were involved in an extramarital relationship. On information and belief, the Plaintiff alleges that Defendant Mendoza communicated ex parte with Judge Starns in order to (1) protect her boyfriend from the embarrassment of having his personnel file released, and (2) deny the Plaintiff due process. The Plaintiff further alleges that she did so at the behest of Defendant Yohner and other Defendants.

28. The Plaintiff's criminal trial is set for February 2, 2018. As of December 14, 2017, Defendant Taylor-Felton had been paid \$18,665.20 to prosecute the Plaintiff in a case that will result in a \$500 fine at most if he is convicted. She has summoned ten witnesses to testify in what is the legal equivalent of a speeding-ticket case. Never before in its history has the City of Hearne expended such effort and such resources to prosecute someone for a Class C misdemeanor, and it would not be expending such effort and resources now but for the fact that Defendant Naron, the City of Hearne, and other Defendants are so hellbent on retaliating against the Plaintiff for his political activism.

29. Defendants Naron, Williams, and Yohner have enforced the law selectively and in bad faith against the Plaintiff. Defendants Gomez, Aguirre, and Salvagio, as well as the Hearne City Council itself, have taken no corrective action despite their awareness of the selective and bad faith enforcement against the Plaintiff.

30. Similarly, the Plaintiff is being prosecuted selectively and in bad faith by the City of Hearne and Defendant Taylor-Felton. Defendants Gomez, Aguirre, and Salvagio, as well as the Hearne City Council itself, have taken no corrective action despite their awareness of the selective and bad faith prosecution of the Plaintiff.

31. The selective enforcement of the law against the Plaintiff, and the ongoing selective prosecution, are but the latest in an ongoing conspiracy that began when the Plaintiff's electricity was turned off in 2015. Defendants Naron, Drake, Gomez, and Aguirre wanted to discredit and silence the Plaintiff and his political allies, and Defendant Russ joined the conspiracy when he attempted to deprive the Plaintiff and his allies of the right to vote in a referendum that might have exposed further financial misconduct at city hall. Defendants Salvaggio, Williams, Yohner, Mendoza, Rodriguez, and Taylor-Felton later ratified the unlawful acts, participated in the unlawful acts, or induced others to engage in the unlawful acts.

32. Defendants Gomez, Aguirre, and Salvaggio and the rest of the Hearne City Council have been fully aware of the retaliation campaign against the Plaintiff since 2016 at the latest, and they have done nothing to stop it. On the contrary, Defendants Gomez, Aguirre, and Salvaggio have ratified the unlawful acts of Defendants Naron, Williams, and Yohner.

33. Before the Plaintiff was charged, Defendants Gomez, Aguirre, and Salvaggio and the rest of the Hearne City Council were fully aware of a long pattern of civil rights violations and corruption in the City of Hearne and in the Hearne Police Department, and they made no effort to correct the problems. On the contrary, the foregoing Defendants knowingly tolerated lawlessness and corruption among city officials and employees. Defendant Yohner in particular was known to be tainted and corrupt, but city officials used him for their own underhanded purposes, *e.g.*, when they used him to investigate and cite the Plaintiff for the Class C misdemeanor.

34. The Hearne City Council, Defendant Naron, and Defendant Williams have consistently failed to supervise the Hearne Police Department. While he was still employed by the police department, for example, Defendant Yohner routinely took illegal drugs from suspects or from lower-ranking officers and put them in his desk, and he did so without logging the illegal drugs into evidence, yet no action was taken against him. On information and belief, Defendant

Yohner was using or selling the drugs. After Defendant Yohner was forced to resign for sexual misconduct, Defendant Williams was observed dumping some of the illegal drugs down a toilet at the police building. The Texas Rangers has been investigating the incident for eight months, yet Defendant Williams has never been disciplined, much less terminated.

35. As a result of the stigma of being charged in a case that alleges sexual misconduct with a minor, the Plaintiff lost his job as a school bus driver for the Hearne Independent School District, and he is no longer working as a Baptist minister. The plaintiff has suffered significant injury to his reputation as well as his physical and emotional health.

CLAIMS

42 U.S.C. §§ 1983 and 1985

36. All prior paragraphs are incorporated herein by reference.

37. The Plaintiff brings claims for actual damages and punitive damages against Defendants City of Hearne, Naron, Drake, Gomez, Aguirre, Salvaggio, Russ, Williams, Yohner, Mendoza, and Rodriguez under 42 U.S.C. § 1983 because they (1) retaliated against him for exercising his rights guaranteed by the First Amendment to the U.S. Constitution; (2) conspired with other Defendants who retaliated; or (3) failed to supervise those who retaliated. With respect to Defendants Taylor-Felton and Wright, the Plaintiff seeks only injunctive relief to prohibit the ongoing prosecution of the misdemeanor criminal charge.

38. The Plaintiff brings claims for actual damages and punitive damages against Defendants City of Hearne, Naron, Drake, Gomez, Aguirre, Salvaggio, Russ, Williams, Yohner, Mendoza, and Rodriguez under 42 U.S.C. §§ 1983 and 1985 because they (1) denied him the equal protection of the laws as guaranteed by the Fourteenth Amendment to the U.S. Constitution; (2) conspired with other Defendants who denied his equal protection rights; or (3) failed to supervise those who denied his equal protection rights. With respect to Defendants

Taylor-Felton and Wright, the Plaintiff seeks only injunctive relief to prohibit the ongoing prosecution of the misdemeanor criminal charge.

39. The Plaintiff brings claims for actual damages and punitive damages against Defendants City of Hearne, Naron, Drake, Gomez, Aguirre, Salvaggio, Russ, Williams, Yohner, Mendoza, and Rodriguez under 42 U.S.C. §1983 because they (1) denied him due process of law as guaranteed by the Fourteenth Amendment to the U.S. Constitution; (2) conspired with other Defendants who denied him due process; or (3) failed to supervise those who denied him due process. With respect to Defendants Taylor-Felton and Wright, the Plaintiff seeks only injunctive relief to prohibit the ongoing prosecution of the misdemeanor criminal charge.

REQUEST FOR RELIEF

40. The Plaintiff respectfully prays that upon a final hearing of this case, judgment be entered for him against the Defendants, for damages in an amount within the jurisdictional limits of the Court; together with pre-judgment interest at the maximum rate allowed by law; post-judgment interest at the legal rate; costs of court; attorney fees; and such other and further relief to which the Plaintiff may be entitled at law or in equity, including injunctive relief to prevent further retaliation.

THE PLAINTIFF DEMANDS A JURY TRIAL.

Respectfully submitted,

/s/ Ty Clevenger

Ty Clevenger
Texas Bar No. 24034380
P.O. Box 20753
Brooklyn, New York 11202-0753
(979) 985-5289
(979) 530-9523 (fax)
tyclevenger@yahoo.com

Attorney for Plaintiff Rodrick Jackson