

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
NEWNAN DIVISION**

HERB BARTLETT and SANDY WOOD,	:	
	:	
Plaintiffs,	:	
	:	Civil Action No.
vs.	:	
	:	
STEVE WHITLOCK,	:	
	:	<u>JURY TRIAL DEMANDED</u>
Defendant.	:	

COMPLAINT

COMES NOW, HERB BARTLETT (“Bartlett”) and SANDY WOOD (“Wood”)(collectively “Plaintiffs”), Plaintiffs in the above styled action, and file this *Complaint*, as follows:

INTRODUCTION

1. This is a civil rights action brought pursuant to 42 U.S.C. §§ 1983 and 1988, the Fourth and Fourteenth Amendments to the U.S. Constitution, O.C.G.A. § 51-7-40, and state tort law, arising from the unlawful arrest, detention and prosecution of Plaintiffs by and through the intentional acts, customs, policies and omissions of the Defendant. Plaintiffs were subjected to arrest and prosecution due to the unreasonable, reckless, and false representations and omissions of Defendant Steve Whitlock (“Whitlock”) who, acting in his role as Sherriff of Meriwether County, ordered the arrest of Plaintiffs for alleged animal

cruelty offenses for which he knew or should have known no probable cause existed. The prosecution of Plaintiffs proceeded due to the fact that Whitlock, and others acting on his behalf, procured warrants for Plaintiffs' arrest and encouraged Plaintiffs' prosecution for animal cruelty in the complete absence of any probable cause to believe a crime had been committed by either Plaintiff. Whitlock secured an arrest warrant for both Plaintiffs, and they were both subject to legal process as a result of their arrests, though prosecutors refused to prosecute either case. Plaintiffs' seek equitable relief, monetary damages, attorneys' fees and costs, and a trial by jury.

JURISDICTION AND VENUE

2. Jurisdiction of this Court is pursuant to 28 United States Code § 1331; 28 United States Code § 1343; and the Fourth and Fourteenth Amendments to the United States Constitution. The Court has supplemental jurisdiction over the Plaintiff's state law claims pursuant to 28 United States Code § 1367.

3. Venue in this action is proper under Title 28 United States Code §1392, since all of the Defendants reside in this district and division, and the claims arose in this district and division.

4. This action is brought for damages and other appropriate relief under 42 United States Code §§ 1983 and 1988 and the Fourth and Fourteenth Amendments to the Constitution of the United States, for violation of the

Plaintiff's federal civil rights by the Defendants, whose actions were taken under color of state law.

PARTIES

5. Bartlett is a citizen of the State of Georgia residing in Meriwether County, Georgia.

6. Wood is a citizen of the State of Georgia residing in Meriwether County, Georgia.

7. Defendant was the elected Sherriff of Meriwether County. He is a citizen of the State of Georgia and is subject to the personal jurisdiction of this Court. He may be personally served with the Summons and Complaint at 833 Piney Woods Rd., Hogansville, Ga 30320.

JURY TRIAL DEMAND

8. Plaintiff hereby demands a trial by jury on each of the causes of action pleaded herein.

FACTS

9. Bartlett first became employed by Meriwether County in 2003.

10. In March 2007, he became Director of the Meriwether County Animal Shelter ("the shelter"), as well as the County's Animal Control Officer.

11. Wood first became employed by Meriwether County in 2004.

12. Wood began working as the office manager for the Meriwether County Animal Shelter on or about March 2007.

13. Under Wood and Bartlett's leadership, the shelter flourished. The shelter had one of the lowest euthanasia rates in the state, organized a large force of volunteers from the community, and managed all of this on a shoestring budget.

14. Wood and Bartlett were also both politically active within Meriwether County for years, and their activism, at times, put them at odds with various members of County government.

15. The Defendant is one such individual with whom Wood and Bartlett have found themselves at odds.

16. Compounding the political tension that existed between Wood, Bartlett and the Defendant, throughout Wood and Bartlett's tenure at the shelter, Defendant made no secret of his desire to seize control of the shelter, and bring the shelter under the supervision of the Sherriff's department.

17. In the summer of 2011, Defendant seized on an opportunity to both harass Wood and Bartlett and take control of the Animal Shelter.

18. On or about June 2, 2011, an investigator from the Georgia Department of Agriculture, Robin Nicholson, responded to a complaint concerning the conditions of the Meriwether Animal Shelter.

19. Upon information and belief, that complaint emanated from the Meriwether County Sherriff's Department, and Nicholson was induced by the Defendant or members of the Defendant's administration to wrongfully target Mr. Bartlett.

20. Following her visit, Nicholson issued a "Notice of Violation" which outlined various alleged violations related to conditions at the shelter. This notice, which was issued against the Meriwether County Board of Commissioners, indicated her investigation was still pending. She did not order quarantine, nor did she issue the shelter a "stop order." In fact, her findings were not adopted by the Department of Agriculture until they issued their "Consent Order" adopting some of her findings on or about June 28, 2011.

21. One of Nicholson's findings concerned the euthanasia procedures being used at the shelter. With regard to the euthanasia procedures, she cited the shelter for a violation of "order of preference" under O.C.G.A. 4-11-5.1.

22. O.C.G.A. 4-11-5.1 states a preferred order for euthanasia as follows: "(1) Intravenous injection by hypodermic needle; (2) Intraperitoneal injection by hypodermic needle; or (3) If the dog or cat is unconscious, intracardial injection by hypodermic needle". Ga. Code Ann. § 4-11-5.1 (West).

23. Nicholson made a finding in her report that the preferred order of euthanasia put forth in O.C.G.A 4-11-5.1 had not always been followed at the

Meriwether County animal shelter. According to her, Bartlett had, at times, used intracardial injections as the primary method of euthanasia.

24. The law with reference to euthanasia order of preference, codified in O.C.G.A 4-11-5.1, had been amended effective December 31, 2010, mere months prior to Nicholson's report. Under the previous version of the law, Meriwether County, and thus Bartlett and his staff, were not bound by O.C.G.A 4-11-5.1 at all because the order of preference did not apply to county's with a population of less than 25,000. At all times relevant to this action Meriwether County had a population of less than 25,000.

25. Nevertheless, on or about June 3, 2011, armed with only the brief, conclusory findings in Nicholson's preliminary report, Meriwether County Sherriff's Deputy, Charlie Canady, acting at the command of Defendant, swore out an arrest warrant for Bartlett's arrest for animal cruelty pursuant to O.C.G.A. 16-12-4.

26. Upon information and belief, the arrest warrant was issued in the complete absence of probable cause. The arrest warrant, in a wholly conclusory fashion, mere restated the elements of a cause of action for animal cruelty, and contained neither information providing the basis for the affiant's belief, nor any affirmative allegation that the affiant had personal knowledge of the commission of the alleged crime.

27. The arrest warrant was issued only hours after Nicholson's preliminary report was issued, and a full 25 days before the Department of Agriculture issued its consent order adopting Nicholson's findings, therefore Bartlett was arrested while the Department of Agriculture's investigation was still pending.

28. Nowhere did Nicholson's report indicate she believed any of the animals at the shelter had been subjected to cruelty, nor did she make any allegation of animal cruelty against Bartlett or anyone else at the shelter.

29. Bartlett was arrested, without incident, at the Meriwether County Animal Shelter on June 3, 2011. He was booked into the Meriwether County Jail, fingerprinted, forced to put on a woman's shirt, and had his mugshot taken before he was allowed to call his wife, who posted a cash bond to secure his release.

30. Following his arrest, Bartlett's mugshot was leaked to the media, and his picture was run along with extremely misleading headlines such as "Puppy Killer Found". (See Articles attached as Ex. A).

31. As a result of these wholly malicious and fabricated charges, Bartlett lost his job, had his good name and character defamed, and suffered extreme anxiety due to facing possible jail time if convicted of animal cruelty.

32. On or about June 28, 2011, Meriwether County Sherriff's Deputy, Chester Crawford, acting at the command of Defendant, swore out an arrest warrant for Wood's arrest for animal cruelty pursuant to O.C.G.A. 16-12-4.

33. Upon information and belief, the arrest warrant was issued in the complete absence of probable cause. The arrest warrant, in a wholly conclusory fashion, mere restated the elements of a cause of action for animal cruelty, and contained neither information providing the basis for the affiant's belief, nor any affirmative allegation that the affiant had personal knowledge of the commission of the alleged crime.

34. Upon hearing of the warrant for her arrest, Wood turned herself in at the Meriwether County Sherriff's Office. She was booked into the Meriwether County Jail, fingerprinted, and had her mugshot taken before being released on her own recognizance.

35. As a result of these wholly malicious and fabricated charges, Wood lost her job, had her good name and character defamed, and suffered extreme anxiety due to facing possible jail time if convicted of animal cruelty.

36. Acting at all times under the color of law, and within the scope and in furtherance of his employment with the Meriwether County Sherriff's Office, Sherriff Whitlock used his position, influence, and office to order the false arrest

and malicious prosecution of Plaintiffs on charges he knew were totally and completely false.

37. He did so for the purposes of harassing Plaintiffs and seizing control of the Meriwether Animal Shelter.

38. In fact, after Plaintiffs were arrested and fired from the shelter, Whitlock put his brother-in-law, Chester Crawford, into place as the shelter's director.

39. Further evidencing the unreasonableness of Plaintiffs' arrests, Joan Sammond, a veteran of the animal welfare industry, and former director with the Humane Society and the Georgia Society for the Prevention of Cruelty to Animals, visited the animal shelter numerous times and had the opportunity to review Nicholson's report. In her numerous personal observations of the shelter and her review of Nicholson's report, nothing she saw, read, or experienced at the Meriwether County Animal Shelter raised any suspicions of animal cruelty. (See Affidavit attached as Ex. B).

40. Finally, both arrests resulted in the prosecutor's office declining to prosecute, as there was no evidence to support either arrest. (See Warrants attached as Ex. C).

COUNT I

MALICIOUS PROSECUTION

FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION
42 U.S.C. §1983

41. By this reference, Plaintiffs reincorporate Paragraphs 7-35 as if fully set forth herein.

42. As fully described herein in the proceeding paragraphs, the Defendant's acts, omissions, policies and customs resulted in the issuance of warrants for Plaintiffs' arrest, and their seizure pursuant to legal process, thereby depriving them of their liberty in violation the Fourth Amendment of the United States Constitution.

43. Under the facts and circumstances alleged herein, an objectively reasonable public official in Defendant's position would have known that offering intentionally misleading and incomplete information falsely implicating Plaintiffs in criminal activity would cause them to be seized and deprived of their liberty in violation of the Fourth Amendment of the United States Constitution.

44. Under the facts and circumstances alleged herein, an objectively reasonable law enforcement officer in Defendant's position would have known that no arguable probable cause existed to support issuance of arrest warrants for

any crime at all, much less the crime of animal cruelty, and accordingly, that Plaintiffs' subsequent arrests on such charges deprived them of liberty in violation of the Fourth Amendment of the United States Constitution.

45. At all times relevant to this action, the law was established with obvious clarity that the conduct of the Defendant as alleged more specifically hereinabove violated the Fourth Amendment of the United States Constitution.

46. As a direct and proximate cause of Defendant's unlawful actions, Plaintiffs were illegally seized pursuant to process and detained against their will, and thereby suffered a loss of liberty in violation of their rights under the Fourth Amendment to the United States Constitution, entitling them to actual and compensatory damages in an amount to be determined by the enlightened conscience of the jury.

47. The actions of Defendant described herein were willful, deliberate, and malicious, thereby entitling Plaintiffs to an award of punitive damages in an amount to be determined by the enlightened conscience of the jury.

COUNT II

MALICIOUS PROSECUTION

O.C.G.A. § 51-7-40

48. By this reference, Plaintiffs reincorporate Paragraphs 7-35 as if fully set forth herein.

49. As fully described herein in the proceeding paragraphs, the Defendant's acts, omissions, policies and customs resulted in the issuance of warrants for Plaintiffs' arrest, and their seizure pursuant to legal process, thereby depriving them of their liberty in violation of O.C.G.A. § 51-7-40.

50. Under the facts and circumstances alleged herein, an objectively reasonable public official in Defendant's position would have known that offering intentionally misleading and incomplete information falsely implicating Plaintiffs in criminal activity would cause them to be seized and deprived of their liberty in violation of O.C.G.A. § 51-7-40.

51. Under the facts and circumstances alleged herein, an objectively reasonable law enforcement officer in Defendant's position would have known that no arguable probable cause existed to support issuance of arrest warrants for any crime at all, much less the crime of animal cruelty, and accordingly, that Plaintiffs' subsequent arrests on such charges deprived them of liberty in violation of O.C.G.A. § 51-7-40.

52. As a direct and proximate cause of Defendant's unlawful actions, Plaintiffs were seized and detained against their will, and thereby suffered a loss of liberty in violation of their rights under O.C.G.A. § 51-7-40, entitling them to actual and compensatory damages in an amount to be determined by the enlightened conscience of the jury.

53. The actions of Defendant described herein were willful, deliberate, and malicious, thereby entitling Plaintiffs to an award of punitive damages in an amount to be determined by the enlightened conscience of the jury.

COUNT III

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

54. By this reference, Plaintiffs reincorporate Paragraphs 7-35 as if fully set forth herein.

55. Defendant's acts of misrepresenting evidence to authorities and urging the prosecution of Plaintiffs, as described supra, was intentional and/or reckless.

56. Defendant's conduct was extreme and outrageous. Specifically, by ordering the arrest of Plaintiffs pursuant to warrant, thus causing them to be seized pursuant to legal process where no probable cause existed, Defendant acted outrageously and beyond the bounds of decency.

57. Defendant's conduct caused Plaintiff to suffer severe emotional distress, entitling them to compensatory damages in an amount to be determined by the enlightened conscience of the jury.

58. The actions of Defendant described herein were willful, deliberate, and malicious, thereby entitling Plaintiffs to an award of punitive damages in an amount to be determined by the enlightened conscience of the jury.

WHEREFORE, Plaintiffs pray:

- a) That the Court declare that Defendant's actions, policies, and practices complained of herein violated Plaintiffs' rights under the Fourth and Fourteenth Amendments of the Constitution of the United States of America;
- (b) That Defendant be permanently enjoined from violating the rights of Plaintiffs and others under the Fourth and Fourteenth Amendments to the Constitution of the United States of America;
- (c) That special damages be awarded to compensate Plaintiffs for their economic injuries as a consequence of Defendant's violations of Plaintiffs' rights in an amount to be determined by the enlightened conscience of the jury;
- (d) That compensatory damages be awarded against Defendant to compensate Plaintiffs for their pain and suffering, mental and emotional distress, anxiety, humiliation, outrage, and loss of professional and personal reputation as a consequence of Defendant's actions in an amount to be determined by the enlightened conscience of the jury;
- (e) That punitive damages be awarded against Defendant in an amount to be determined by the enlightened conscience of the jury to deter Defendant and others from similar misconduct in the future;

- (f) That a trial by jury be had on all issues wherein a jury trial is permitted under law;
- (g) That attorneys' fees and expenses of litigation be awarded as authorized under 42 U.S.C. § 1988;
- (h) That prejudgment interest be awarded; and,
- (i) That the Court award such other equitable or monetary relief as deemed just and proper.

Respectfully submitted, this August 26, 2013.

/s/ James Radford
James Radford
Georgia Bar No. 108007

/s/ Caleb Gross
Caleb Gross
Georgia Bar No. 960323

James Radford, LLC
545 N. McDonough St., Suite 212
Decatur, Georgia 30030
(678) 369-3609
james@jamesradford.com
caleb@jamesradford.com