

FILED
04-26-2024
Clerk of Circuit Court
Kenosha County
2023CV000878

STATE OF WISCONSIN : CIRCUIT COURT : KENOSHA COUNTY

VILLAGE OF BRISTOL,
19801 83rd Street
Bristol, WI 53104,

Plaintiff,

Case No.: 2023 CV 878

v.

CHRISTINE BARASSI-JACKSON,
and
QUENTIN JACKSON,
20022 82nd Street
Bristol, WI 53104,

Defendants - Counter-Claimants,

v.

RANDY R. KERKMAN
In His Official Capacity as Village of Bristol - Administrator
19801 83rd Street
Bristol, WI 53104,

Third Party Defendant and additional Party to Counterclaim,

RENEE BRICKNER,
In Her Official Capacity as Village of Bristol - Village Clerk
19801 83rd Street
Bristol, WI 53104,

Third Party Defendant and additional Party to Counterclaim.

COUNTERCLAIM

Christine Barassi-Jackson, and Quentin V. Jackson, as and for their Counterclaims against the Plaintiff Village of Bristol and additional Counterclaim Defendants and Third Party Defendants, Randy R. Kerkman in his official capacity as Village of Bristol Administrator, and Renee Brickner in her official capacity as Village of Bristol Village Clerk, allege as follows:

PARTIES

1. Plaintiff and Counter-Claimant Christine Barassi-Jackson ("Mrs. Jackson") is an adult resident of the State of Wisconsin currently residing at 20022 82nd Street, Bristol, Wisconsin 53104. Mrs. Jackson is a Caucasian female and is the current fee simple title holder of the real estate currently without a street address, but known as tax parcel 37-4-121-363-0322 located in the Village of Bristol, Wisconsin. (Hereinafter the "Property").

2. The Defendant and Counter-Claimant Quentin V. Jackson ("Mr. Jackson") is an adult resident of the State of Wisconsin currently residing at 20022 82nd Street, Bristol, Wisconsin 53104. Mr. Jackson is the husband of Mrs. Jackson. He is African American and holds a marital interest in the Property. Mr. and Mrs. Jackson are the biological parents of two minor children.

3. The Plaintiff and Counterclaim Defendant Village of Bristol is a Wisconsin Village organized under the laws of the State of Wisconsin which maintains its principal offices at 19807 83rd Street, Bristol, Wisconsin 53104. (Hereinafter the Village of Bristol will be referred to as the "Village").

4. Third Party Defendant and additional party to the Counterclaim Randy R. Kerkman ("Mr. Kerkman"), for all times relevant to this action served as the Village Administrator for the Village. Mr. Kerkman is sued in his official capacity as Village Administrator for his acts and omissions undertaken under color of state law.

5. Third Party Defendant and additional Counterclaim Defendant, Renee Brickner ("Ms. Brickner"), is sued in her official capacity as Village Clerk for the Village. Ms. Brickner is sued for her acts and omissions undertaken under color of state law.

NATURE OF THIS COUNTERCLAIM.

Counter-Claimants seek damages and injunctive relief against the Village, Mr. Kerkman and Ms. Brickner for their acts and omissions undertaken under color of state law for the depriving the Counter-Claimants of their rights secured by the United States Constitution, and the Constitution of the State of Wisconsin. The Counterclaim

Defendants, while acting in their respective capacities or as the Village, deprived the Counter-Claimants of their respective property and other rights without proper due process of law. In the case of Mr. Jackson, the Counterclaim Defendants further engaged in an unreasonable search and seizure of his person, and violated his First and Fifth Amendment Rights as provided through the 14th Amendment of the United States Constitution. This action is brought under, among others, 42 U.S.C. 1983.

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION.

1. Mr. and Mrs. Jackson are currently residents and registered voters in the Village residing at 20022 82nd Street, Bristol, Wisconsin 53104.
2. Mrs. Jackson is the current fee simple title owner of the Property. Pursuant to Wisconsin Marital Property Law, Mr. Jackson holds a marital interest in the Property. At all times relevant hereto, Mr. and Mrs. Jackson sought to develop and build on the Property a single family home and outbuildings, but have repeatedly been prevented from doing so by the acts and omissions of the Counterclaim Defendants.
3. Mr. and Mrs. Jackson's Property is adjacent on its western boundary to a residential property which, upon information and belief, is owned by Felix M. Siordia and Martina Siordia. The address for Mr. and Mrs. Siordia's real estate abutting the Property is 13500 128th Street, Kenosha, Wisconsin. (Hereinafter the Siordia Property").
4. Also located to the west of the Counter-Claimant's Property is a residential property which, upon information and belief is owned by Byron W. Aslett and Susan I. Aslett. The address for Mr. and Mrs. Aslett's property is 13524 128th Street, Kenosha, Wisconsin 53142.
5. Mr. and Mrs. Aslett, as well as, Mr. and Mrs. Siordia are Caucasian adults. Village Administrator Mr. Kerkman, and Village Clerk Ms. Brickner, are also Caucasian adults.
6. Mr. and Mrs. Siordia have repeatedly contacted the Village asserting numerous complaints against and concerns regarding the Counter-Claimants' efforts to improve and build a home on their Property.

7. Mr. and Mrs. Aslett have also objected to the Village of Mr. and Mrs. Jackson's efforts to improve and build a home on their Property.

8. Felix M. Siordia has, at least on one occasion, told Mr. Jackson that he should "take...[his] Black ass somewhere else." Mr. Jackson obtained a Harassment Injunction against Mr. Siordia.

9. Mrs. Siordia and Mrs. Aslett have repeatedly written to Mr. Kerkman in his position as Village Administrator stating numerous objections to the Jacksons' development of their Property and demanded that Mr. Kerkman and the Village take action against Mr. and Mrs. Jackson.

10. Mr. Kerkman, in his capacity as Village Administrator, has advised Mr. Jackson that Mr. Kerkman "runs Bristol." Mr. Kerkman has further advised Mr. Jackson that Mr. Kerkman "will never let Mr. Jackson build his home."

11. Mr. and Mrs. Jackson's Property is comprised of approximately five acres of land. The Property had an existing driveway at the time the Jackson's purchased the Property.

12. Mr. Jackson, at times, has stored on the Property a trailer with building materials for the anticipated construction of the Jackson's planned home. Mr. Jackson has also at times parked on the Property properly titled, operational vehicles all with current and valid license plates. Mr. and Mrs. Jackson have also parked a camper on their Property which they utilized for vacation purposes.

13. The Jacksons' trailer, vehicles and camper were parked near the rear of the Property and were or are not visible from the public road abutting the Property.

14. Mr. and Mrs. Siordia and Mr. and Mrs. Aslett while also having trailers and vehicles located on their own property, objected to the Village regarding Mr. and Mrs. Jackson's parking their trailer, as well as automobiles and camper on the Jackson Property.

15. Mr. Kerkman acting on behalf of the Village and in response to the Siordia and Aslett complaints ordered Mr. and Mrs. Jackson to remove their automobiles and camper from their Property contending that Village ordinances or other accepted Village practices prohibited the Jackson's from using the Jacksons' Property for the parking or

storage of their own vehicles, camper, and trailer absent the existence of a complete home on the Property.

16. Upon information and belief, Mr. and Mrs. Jackson were singled out for enforcement of the purported ordinance and Village practice with regard to use of private property for parking of licensed and titled vehicles, camper and trailer.

17. Mr. and Mrs. Jackson had prepared building plans and specifications for the construction of a single family home on the Jackson Property. On no less than three occasions the Jackson's submitted their plans for approval by the Village and to receive a building permit. Each time the Village rejected their application for a building permit, or refused to authorize the issuance of a permit. At times, the Village failed to provide any explanation for its rejection or failure to issue the requested permit.

18. Mr. and Mrs. Aslett, as well as, Mr. and Mrs. Siordia claimed, at times, that they had property rights which were adversely affected by Mr. and Mrs. Jackson's development of the their Property. This included claims that the Jackson Property contained a purported wetland into which runoff water from their properties flowed and which would be adversely affected by the Jackson's planned development of their Property. These two couples also contended at times that one or both of the couples had come to own part of the Jackson Property, presumably through an illegitimate claim of adverse possession.

19. Upon information and belief, Mr. Kerkman authorized Felix Siordia and Bryon Aslett to provide surveillance and to inspect the Counter-Claimant's Property for the Village. Mr. Kerkman requested these neighbors of the Jackson's to report back to Mr. Kerkman and the Village their observations and findings.

20. Mr. Siordia and Mr. Aslett acted as agents of the Village for surveillance and reporting purposes to Mr. Kerkman and the Village

21. Upon information and belief, and in apparent belief, that they had somehow been authorized by the Village to do so, Mr. Aslett and Mr. Siordia knowingly trespassed upon the Counter-Claimant's Property without permission, privilege, or justification in violation of Mr. And Mrs. Jackson's rights. Mr. Aslett and Mr. Siordia further took photographs of vehicles and other items parked or stored on the Jackson

Property that could not be seen from the public roadway. They reported their surreptitious findings to Mr. Kerkman and the Village which demanded removal of the Jackson's vehicles and other items from the Property.

22. Mr. Aslett and Mr. Siordia, upon information and belief, without permission to do so, moved or removed survey stakes or rods which had been placed by surveyors on the Jackson Property.

23. Counter-Claimant Defendant Mr. Kerkman was advised by a Kenosha County Sheriff's Deputy that his actions in requesting Mr. Siordia, who was already subject to a Harassment Injunction obtained by Mr. Jackson, could be viewed as violating the intent and the spirit of the Harassment Injunction.

24. On more than one occasion Mr. Jackson has sought assistance from the Kenosha Sheriff's Department for what he believed to be violations of the Harassment Injunction he obtained against Mr. Siordia. Mr. Jackson's requests were either ignored or denied.

25. Upon information and belief, Mr. Kerkman has requested that on any calls for law enforcement involvement that relate to Mr. Jackson or the Jackson's Property, that the responding law-enforcement department contact Mr. Kerkman before responding.

26. The Village Board when challenged by Mr. Jackson regarding its claimed ordinance on vehicles stored on a land owner's property reviewed its ordinance and claimed practice and voted to change the ordinance on or about January 23, 2023, to attempt to bring the ordinance in compliance with its prior enforcement efforts against Mr. and Mrs. Jackson.

27. Mr. Jackson filed with the Village and Mr. Kerkman a proper request under Wisconsin's Open Records law for the production of any complaints the Village had received about Mr. and Mrs. Jackson and their efforts to improve their Property.

28. In response to Mr. Jackson's request for this identified class of records the Village produced only redacted versions of email communications directed to Mr. Kerkman, by Mrs. Siordia and Mrs. Aslett. The produced records blacked out the names of the senders of the emails to Mr. Kerkman.

29. In response to essentially the same public records demand made by a third party the Village produced to this third party un-redacted versions of the emails to Mr. Kerkman containing the senders' names.

30. Mr. and Mrs. Jackson sought out the assistance and approval of the Wisconsin Department of Natural Resources and The Army Corp. of Engineers to determine what was permissible in the development of their Property. Mr. and Mrs. Jackson specifically sought guidance and confirmation with regard to improvement of the existing driveway on the Property, installation of landscaping berms and approval for planned work on the area of the Property that at times held runoff water.

31. The Wisconsin Department of Natural Resources approved plans by Mr. and Mrs. Jackson to bring fill onto the Property to fill in a designated area of the Property which at times held standing water, to build landscape berms, and to further improve the existing driveway on the Property.

32. Upon information and belief, the Department of Natural Resources of the State of Wisconsin has exclusive authority to determine what areas constitute wetlands within the State and to enforce Wisconsin law as to wetland preservation.

33. At all times relevant, Mr. and Mrs. Jackson had the approval of the Wisconsin Department of Natural Resources for the actions they attempted to take with regard to the improvement of their Property.

34. On at least two occasions, Mr. Kerkman and the Village stopped Mr. and Mrs. Jackson's improvement of their Property, demanded that construction crews cease work, and have issued a "Stop Work Order" on Mr. and Mrs. Jackson's completion of approved berms and improvement of the existing driveway on their Property.

35. Mr. Kerkman on behalf of the Village after having issued to Mr. and Mrs. Jackson a permit for the hauling of soil and fill onto the Property, attempted to add additional conditions and terms to the permit by handwriting. Upon information and belief this action was done in an effort to thwart the Jacksons' ongoing improvement of their Property.

36. Mr. Kerkman unjustifiably contended Mr. and Mrs. Jackson were improperly placing fill in areas which he and the Village contended were protected

wetland areas. Mr. Kerkman and the Village further contended that the Village could enforce state laws and regulations protecting designated wetlands. He and the Village demanded Mr. and Mrs. Jackson stop their previously approved improvement projects for their Property.

37. Mr. and Mrs. Jackson hired outside commercial contractors to survey the Property and to take appropriate elevation readings. They further hired an outside contractor to haul in fill and construct approved berms on the Property. Mr. and Mrs. Jackson further hired an engineer to examine an installed drainage culvert on the Property to make certain it met all applicable requirements. The Village continued to obstruct the development of the Property, however, insisting that work stop on the project. The Village also issued citations to Mrs. Jackson contending she was in violation of Village ordinances.

38. In an effort to understand and clarify the Village's position on various matters affecting the Property, Mr. Jackson began attending Village Board Meetings.

39. Mr. Kerkman, as well as certain Village Trustees, eventually began refusing to answer Mr. Jackson's questions during the noticed open public comment periods of the Village Board Meetings.

40. In an effort to thwart Mr. Jackson's questions and comments during the noticed open comment period during the Village Board Meetings, the Village would turn off the microphone being used by Mr. Jackson.

41. In an effort to bring attention to multiple problems and concerns Mr. and Mrs. Jackson had experienced in attempting to deal with the Village, Mr. Jackson sought and obtained the assistance and support of other individuals, including Village residents. Mr. Jackson asked through social media and other methods for interested persons to attend a scheduled Village Board meeting at which Mr. Jackson intended to speak.

42. Upon information and belief, the Village through Mr. Kerkman, learned of Mr. Jackson's plans. Immediately prior to the scheduled meeting of the Village Board, Mr. Kerkman requested the Kenosha Sheriff's Department to arrest Mr. Jackson for purportedly missing court appearance on an outstanding traffic citation. Mr. Jackson

was, in fact, arrested as he got out of his automobile in a very public setting, searched, detained, and not allowed to attend the scheduled Village Board meeting.

43. Mr. Jackson was arrested for purportedly missing a court appearance which was not scheduled to take place until the following day. Mr. Jackson's arrest was clearly unreasonable, lacked probable cause, and constituted an unreasonable search and seizure of his person. Mr. Jackson was further denied the right to speak at the publicly noticed meeting.

44. Mr. and Mrs. Jackson have expended substantial sums in preparing their Property for the construction of their planned home. These expenditures included hiring of an engineer to evaluate the water control and flow issues raised by the Village and objecting neighbors. Upon information and belief, Mr. and Mrs. Jackson have satisfied, not only the Department of Natural Resources, but have complied with all applicable ordinances and requirements to move forward with the construction of their planned home.

45. Upon information and belief, the Village has engaged in selective enforcement of its ordinances against Mr. and Mrs. Jackson. The Village allows other land owners to store vehicles, trailers, and similar items on their property without interference by the Village. These other residents include Mr. Siordia and Mr. Aslett.

46. In an effort to address what he believed to be multiple problems with the Village government, including unequal treatment of certain classes of people Mr. Jackson sought to run for Village Trustee in the Spring of 2024.

47. Mr. Jackson contacted the Village Clerk's Office, and requested copies of the materials needed to file properly and to be placed on the ballot for the Spring election for an available Trustee position.

48. Mr. Jackson was assured by the Village Clerk's Office that it would compile and make available to him for pick-up at the Clerk's office a packet containing all necessary documents and materials to run for Village Trustee in the Spring 2024 election.

49. Mr. Jackson picked up the materials compiled by the Village Clerk's Office. He was told that he had been given all the necessary materials for him to file and to be placed on the ballot for a Trustee position for the Spring election.

50. As a result of his negative history with his prior dealings with the Village, and out of an abundance of caution, Mr. Jackson requested a friend, a Caucasian female, to make the same request of the Village Clerk's Office and to pick-up materials prepared by the Clerk's Office for her to run for the Village Trustee position.

51. The Village Clerk's Office provided a complete set of materials to the White female seeking the materials to run for Village Trustee. The Village Clerk's Office provided an incomplete set of materials to Mr. Jackson. Upon information and belief, such actions by the Clerk's Office were intentional and were intended to deprive Mr. Jackson of access to the ballot.

52. Mr. and Mrs. Jackson have satisfied or otherwise complied with all conditions precedent to asserting their claims herein.

FIRST COUNTERCLAIM - VIOLATION OF 42 U.S.C. § 1983

53. Counter Claimants Mr. and Mrs. Jackson incorporate the allegations of paragraphs 1 - 52 into this First Counterclaim against the Village and the additional Counter-Claim Defendants.

54. The Counter-Claim Defendants knowingly and intentionally violated the Constitutional rights of Mr. and Mrs. Jackson in violation of section 42 USC 1983, by among others, the following:

- a. Engaging in selective and discriminatory enforcement of claimed Village ordinances and policies with the intent of singling out for prosecution Mr. and Mrs. Jackson and to deprive Mr. and Mrs. Jackson of full use and enjoyment of their Property.
- b. Violating Mr. and Mrs. Jackson Constitutional rights by failing to provide Mr. and Mrs. Jackson with due process and equal protection under the law.
- c. Contending that the Village had authority to declare part of The Jackson's Property wetlands and to stop Mr. and Mrs. Jackson from Department of

Natural Resources previously approved work on the Property and to deprive Mr. and Mrs. Jackson of full use and enjoyment of their Property.

- d. Authorizing and condoning trespass by agents appointed by the Village to conduct surveillance and searches of the Property without proper warrant or justification in order to justify the Village's prosecution of Mr. and Mrs. Jackson.
- e. Attempting to and interfering with Mr. and Mrs. Jackson's equal access to government records, resources, and to freely speak at a noticed public meeting.

55. The Counter-Claim Defendants have violated Mr. and Mrs. Jackson's Constitutional rights under the 14th Amendment of the United State Constitution and the First and Fourth Amendments to the U.S. Constitution.

56. Mr. and Mrs. Jackson have been damaged by the acts and omissions of the Counter-Claim Defendants.

57. Mr. and Mrs. Jackson are entitled to punitive damages as a result of the reckless and callous indifference to their Constitutional rights by the Counter-Claim Defendants.

**SECOND COUNTER-CLAIM VIOLATION OF 42 U.S.C. § 1983
AS TO MR. JACKSON**

58. Counter Claimants' incorporate the allegations in paragraphs 1 - 57 into this Second Cause of Action.

59. The Counter-Claim Defendants have intentionally and knowingly violated the Constitutional rights of Mr. Jackson, including his rights of due process and equal protection as provided through the 14th Amendment of the United States Constitution and the First and Fourth Amendments to the United States Constitution by, among others, the following:

- a. Engaging in an unreasonable search and seizure of Mr. Jackson, and unjustifiably detaining of Mr. Jackson with the intent of preventing him from attending a scheduled Village Trustee meeting at which he intended

to speak, and by arresting Mr. Jackson in a manner to attempt to humiliate him in public .

- b. Improperly arresting and detaining Mr. Jackson without probable cause for clearly improper purposes.
- c. Attempting to deny Mr. Jackson his rights under the First Amendment to participate in a public election by attempting to sabotage his efforts to run for political office.
- d. Preventing him from speaking at one or more public Village hearings.
- e. Attempting to cause and for causing Mr. Jackson embarrassment, humiliation, damage to his reputation and for emotional harm as a result of the repeated actions against him to prevent his proper exercise of rights as a citizen of the United States and State of Wisconsin.
- f. Advising Mr. Jackson that the Village would never allow him to build his planned home on the Property in Bristol.
- g. Providing Mr. Jackson unequal treatment in his request for public records by redacting records for Mr. Jackson that were provided to another public records requestor in unredacted form.

60. Mr. Jackson is entitled to damages in an amount to be established at trial.

61. Mr. Jackson is entitled to punitive damages in an amount to be established at trial due to the reckless and callous indifference to his Constitutional rights as displayed by the Counter Claim Defendants.

THIRD COUNTER CLAIM - INJUNCTIVE RELIEF

62. Counter-Claimants' incorporate the allegations in paragraphs 1 - 61 into this Third Counter Claim.

63. As a result of the acts and omissions of the Counter-Claim Defendants the Counter-Claimants have not only been damaged, but have experienced ongoing discrimination and harassment by the Counterclaim Defendants.

64. The Counter-Claimants have satisfied or otherwise performed all necessary conditions for the approval of their building plans to allow them to move forward with the construction of their planned home.

65. The Counter-Claimants have no adequate remedy at law, and will be irreparably harmed unless appropriate injunctive relief is granted against the Village and other Counter-Claim Defendants preventing further deprivation of the Mr. and Mrs. rights.

66. The Counter-Claimants request Temporary and Permanent Injunction relief barring the Village and Counter Claim Defendants from further interfering with the proper actions of the Counter Claimants in their efforts to enjoy, build upon, and live on the Jackson Property.

THIRD PARTY COMPLAINT AGAINST ADDITIONAL COUNTERCLAIM DEFENDANTS

67. For purposes of filing under the State of Wisconsin's e-file system Mr. and Mrs. Jackson incorporate the allegations of paragraphs 1 - 66 as a Third Party Complaint against the additionally named Counterclaim Defendants Mr. Kerkman and Ms. Brickner in their official capacities.

WHEREFORE, the Counter Claimants Mr. and Mrs. Jackson demand Judgment as follows:

1. For compensatory damages in an amount to be established at trial.
2. For Temporary and Permanent injunctive relief barring the Counter Claimant Defendants from further harassment and interference against the Counter-Claimants as they attempt to construct a home on the Jackson Property.
3. For punitive damages in an amount to be established at trial.
4. For actual attorneys fees, costs, statutory attorneys fees and disbursements.
5. For such other relief as is just and equitable.

JURY DEMAND

Counter Claimants request a Jury Trial on all issues raised in their Counter Claim.
Counter Claimants request a Jury of 12 individuals.

Dated this 26th day of April, 2024,

LAW OFFICE OF MARK E. SOSTARICH
Attorney for Defendants and Counter-Claimants
Christine Barassi-Jackson, and Quentin V. Jackson



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