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William Deans*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

WILLIAM DEANS, an individual,
Plaintiff,

vs.

LAS VEGAS CLARK COUNTY LIBRARY
DISTRICT,
Defendant.

Case No. 2:16-cv-02405-APG-PAL

**AMENDED VERIFIED 42 U.S.C. § 1983
COMPLAINT FOR DECLARATORY
RELIEF, INJUNCTIVE RELIEF, AND
DAMAGES**

JURY TRIAL DEMANDED

Plaintiff William Deans brings this Amended Complaint for injunctive relief, declaratory relief, and damages. This is an action under 42 U.S.C. § 1983 to address the unconstitutional prior restraint issued by Defendant Las Vegas Clark County Library District ("Defendant" or "LVCCLD") against Plaintiff, as well as violations of Plaintiff's First Amendment rights to petition and freedom of expression. Plaintiff hereby amends his Complaint, pursuant to this Court's order, to address the evidence offered at the November 1, 2016 hearing on Plaintiff's Motion for Preliminary Injunction. Based on Defendant's clear constitutional violations and willful and deliberate violations of the law, Plaintiff seeks a permanent injunction, declaratory relief, damages, costs, attorneys' fees, and any other relief to which he is entitled as a victim of civil rights violations.

1 **1.0 INTRODUCTION**

2 1. On October 13, 2016, Plaintiff William Deans was exercising his First
3 Amendment right to engage in political speech by obtaining signatures for a
4 petition to place the Automatic Voter Registration Initiative on the ballot in
5 Nevada and by instructing his fellow citizens as to how to register to vote prior to
6 the October 18, 2016 deadline.

7 2. He did this at the West Charleston Public Library (the "Library"), a
8 public library located on the campus of the College of Southern Nevada
9 ("CSN"), where many civically-minded citizens come to educate themselves.

10 3. Rather than encouraging this activity, Defendant and its employees
11 told Plaintiff that he had to "register" with the Library staff before he could
12 engage in this protected activity of gathering signatures and advocating to
13 other citizens that they should register to vote, and instructing them as to how to
14 do so.

15 4. Defendant and its employees also told Mr. Deans that he could only
16 engage in his protected activity in an unreasonable area of the Library entrance,
17 away from any likely foot traffic.

18 5. When Mr. Deans rightfully pointed out that he had a First
19 Amendment Right to engage in this activity, a CSN security officer, acting as an
20 agent of the Library, threatened Mr. Deans with arrest if he did not leave the
21 premises immediately.

22 6. Mr. Deans did ultimately leave the premises in response to
23 Defendant's threat of arrest, but that was not enough for Defendant. It also
24 issued Mr. Deans a "Notice of Trespass" requiring him to leave the Library and
25 forbidding him from visiting **any** LVCCLD branch for a period of at least **one year**.
26 In the absence of the preliminary injunction the Court entered, Mr. Deans would
27 be subject to arrest if he visits *any* branch of the LVCCLD, whether to check out

1 books, to participate in Library activities, or to advocate for voter registration
2 outside the library.

3 7. Defendant has chilled speech at the core of the First Amendment
4 and imposed an unconstitutional prior restraint on Mr. Deans's attempts to
5 educate the voting public.

6 8. The Court should permanently enjoin Defendant from further
7 infringing Mr. Deans's constitutional rights, order Defendant to pay damages for
8 the violations that have already occurred, and order Defendant to pay
9 attorneys' fees and costs to compensate Mr. Deans for the expense of
10 vindicating his Constitutional rights.

11 **2.0 JURISDICTION AND VENUE**

12 9. This Court has original subject matter jurisdiction over the federal
13 Constitutional violations alleged in this First Amended Complaint pursuant to the
14 provisions of 42 U.S.C. § 1983 and 28 U.S.C. §§ 1331 & 1343. This Court has
15 jurisdiction to issue injunctive and declaratory relief pursuant to 28 U.S.C. § 2201
16 and 42 U.S.C. § 1983.

17 10. Venue is proper in the District of Nevada pursuant to 28 U.S.C. § 1391.
18 Defendant resides in Nevada, and all actions pertinent to this First Amended
19 Complaint occurred in Clark County, Nevada.

20 **3.0 THE PARTIES**

21 11. Plaintiff William Deans is a resident of the Commonwealth of
22 Pennsylvania. He is a civically concerned individual who, periodically over the
23 past 10 years, has spent significant time circulating petitions. At the time of
24 Defendant's unlawful activities, he was circulating a petition, later filed with the
25 State of Nevada, to place a measure on ballots in Nevada providing for the
26 automatic registration of eligible voters. Deans was also instructing citizens on
27 their right to register to vote and instructing them as to how they could do so.

1 12. Defendant LVCCLD is a public entity that provides library facilities
2 and library services to the Las Vegas metropolitan area.

3 **4.0 STANDING**

4 13. Mr. Deans was directly affected by Defendant's unlawful activities
5 because he is the direct target of Defendant's unlawful prior restraint against his
6 petitioning activities.

7 14. Defendant's activities have caused a violation of Mr. Deans's rights
8 under the U.S. and Nevada Constitutions. Thus, the requirements for Article III
9 standing have been met.

10 **5.0 FACTS COMMON TO ALL CLAIMS**

11 15. On October 13, 2016, outside the Library, Mr. Deans circulated a
12 petition to add an initiative to the Nevada ballot that if passed would provide for
13 the automatic registration of eligible voters.

14 16. The entrance plaza to the Library
15 is an aesthetically attractive, circular outdoor space of about 75 feet
16 in diameter. Three partial spirals of large stone columns flank the
17 library entrance on the west end of the plaza and help set the plaza
18 apart from the parking lot. A bench sits on the east side. The plaza's
19 ample physical space (around 5,000 square feet) both invites public
20 discourse and mitigates concern that speech activity will necessarily
21 interfere with library ingress and egress.
(Doc. No. 25 at 4.) The entrance plaza is often used as a thoroughfare for people
22 going to and from the CSN campus.

23 17. Due to its physical characteristics, Defendant's publicly stated
24 purpose of the Library and other libraries that are part of LVCCLD, and the fact
25 that it is located on the CSN campus, which is deemed a general "free speech
26 zone," the Library's entrance plaza is a traditional public forum.

27 18. Mr. Deans circulated this petition to several individuals at this
location, and additionally both encouraged people to register to vote in

1 Nevada and provided instructions on how they could register to vote prior to the
2 October 18, 2016 deadline.

3 19. While engaging in this activity, Mr. Deans positioned himself in a way
4 that allowed him to interact with individuals coming into and out of the Library,
5 but without blocking anyone's ingress or egress from the Library.

6 20. Mr. Deans has experience with collecting signatures for petitions in
7 front of libraries. He generally collects approximately 150 signatures per day and
8 instructs approximately 25 people how to register to vote in locations with
9 pedestrian traffic comparable to the Library.

10 21. Not long after he began this protected political activity, Sam
11 Kushner ("Kushner"), the Assistant Branch Manager of the Library, informed
12 Mr. Deans that he could neither collect signatures nor instruct citizens about how
13 to register to vote, unless he "checked-in" with the library.

14 22. Kushner also told Mr. Deans there was "a location for him to stand"
15 while he petitioned and if Mr. Deans did not stay within the location as instructed,
16 he would be ordered to leave Library property.

17 23. The Library has and enforces a policy it calls "Petitioner & Voter
18 Registration Guidelines" (the "Petition Policy"), which requires petitioners to
19 "check in" with Library staff prior to engaging in petitioning activity, and restricts
20 petitioning activity to designated spaces, which are both vaguely defined and
21 unreasonably restrictive.

22 24. The petitioning zone is not marked on the ground and the Library has
23 no pictorial representation depicting the boundaries of the petitioning zone.
24 The written description the Library provided to the Nevada Secretary of State
25 pursuant to NRS 293.127565 reads as follows: "At the east entrance a [sic] the far
26 edget [sic] of the center circle."
27

1 25. During correspondence between counsel for the parties, it took
2 Defendant several days to decide on what it considered to be a proper
3 description of the petitioning spot. And during the hearing on Mr. Deans's Motion
4 for a Preliminary Injunction, Library staff provided contradictory interpretations of
5 what physical area of the Library entrance plaza constituted the designated
6 petitioning spot.

7 26. The petitioning spot where Kushner directed Deans was a small area
8 about 65 feet from the entrance of the building with very little foot traffic.
9 Moreover, the petitioning zone was coexistent with a handicap access ramp,
10 and petitioning in that location could potentially impede handicap access to
11 the plaza and the library entrance doors.

12 27. Kushner did not make up this spot on the fly; rather, this small spot
13 was enforced by numerous members of Library staff over a number of years.

14 28. When Mr. Deans refused to submit to this unconstitutional prior
15 restraint, Kushner's supervisor, Florence Jakus ("Jakus"), and Librarian Steve
16 Dimoulas ("Dimoulas") also informed Mr. Deans that he could petition only in the
17 designated area.

18 29. Jakus reiterated Kushner's instructions that Mr. Deans had to
19 relocate to the petitioning spot and that he had to comply with the Library's
20 "check-in" procedures.

21 30. Mr. Deans explained to Kushner, Jakus, and Dimoulas his position
22 that the First Amendment protected his activity and that the Library's
23 requirements that he limit his petitioning to the specified spot and that he check
24 in prior to petitioning were unconstitutional restraints on his protected speech.

25 31. Kushner, Jakus, and Dimoulas went inside the building and Kushner
26 called the police, with Jakus's approval.

27

1 32. When CSN Police arrived, Kushner met with the officers and told
2 them that Mr. Deans refused to follow staff instructions.

3 33. CSN Officer Antonia Summerlin ("Summerlin"), one of the officers
4 who arrived in response to Kushner's call, informed Mr. Deans, at the Library's
5 direction, that he could engage in his political activism only if he did so in the
6 designated spot.

7 34. Mr. Deans informed Officer Summerlin, as he had previously
8 informed Library staff, that he had a First Amendment right to be there and to
9 engage in peaceful advocacy, and that he did not need to register to circulate
10 political petitions or limit his petitioning to the zone designated by the Library.

11 35. Jakus trespassed Mr. Deans by directing Officer Summerlin to trespass
12 him and by writing on the notice, as the reason for trespassing Mr. Deans, "failure
13 to follow staff instruction." This was the sole reason Defendant trespassed Mr.
14 Deans, and not because Mr. Deans purportedly blocked ingress or egress to or
15 from the Library.

16 36. The Notice of Trespass forbade Mr. Deans from visiting **any** branch of
17 the LVCCLD for at least one year.

18 37. Defendant's employees issued this Notice of Trespass pursuant to
19 Defendant's Library Rules of Conduct (the "Rules of Conduct"). The Rules of
20 Conduct forbid "failure to comply with reasonable staff instruction" and, at all
21 relevant times, imposed a mandatory penalty of a one-year ban from all LVCCLD
22 libraries for violations of the Rules of Conduct.

23 38. After issuing him the Notice of Trespass, Officer Summerlin told
24 Mr. Deans that he would be arrested if he did not leave the premises.

25 39. Jakus instructed Mr. Deans that he would be arrested if he at any
26 point entered the premises of any branch of the LVCCLD while the Notice of
27 Trespass was still in effect.

1 40. Mr. Deans at no point obstructed the entrance to the Library or
2 otherwise obstructed anyone's use of the Library's facilities, nor was he ever in
3 any way disruptive or threatening to anyone. He was at least 15-20 feet away
4 from the doorway and was not impeding access to the doorway.

5 41. Thus, there was no justification for removing him, issuing him a
6 trespass notice, or suppressing his First Amendment protected activity.

7 42. Because CSN officers informed Mr. Deans that he would be arrested
8 if he did not leave the Library premises, Mr. Deans left the Library.

9 **6.0. CLAIMS FOR RELIEF**

10 **6.1 FIRST CLAIM FOR RELIEF**

11 **Violation of the First Amendment to the United States Constitution**
12 **under 42 U.S.C. § 1983**
13 **(Free Speech)**

14 43. Mr. Deans repeats and realleges each and every allegation in the
15 preceding paragraphs as if set forth fully herein.

16 44. The plaza adjacent to the Library where Deans gathered signatures
17 to petition the government and where he instructed citizens how to register to
18 vote is a traditional public forum which affords the greatest First Amendment
19 protections.

20 45. Defendant's policy of excluding all but a small section of the Plaza
21 for petitioning activity is a content-based restriction on protected speech that
22 serves no identifiable compelling governmental interest, and even if it did, the
23 policy is not sufficiently narrowed.

24 46. In the alternative, Defendant's policy of excluding all but a small
25 section of the Plaza for petitioning activity is an unreasonable time, place, and
26 manner restriction that does not further a substantial government interest and
27 does not leave open ample alternative channels of communication.

1 47. Defendant's policy of excluding all but a small section of the Plaza
2 for petitioning activity is an unlawful restriction on Mr. Deans's free speech rights.

3 48. Defendant's policy of requiring speakers to "check in" with Library
4 staff prior to engaging in First Amendment activity is a content-based restriction
5 on protected speech that serves no identifiable compelling governmental
6 interest, and even if it did, the policy is not sufficiently narrowed.

7 49. Alternatively, Defendant's policy of requiring speakers to "check in"
8 with Library staff prior to engaging in First Amendment activity is an unreasonable
9 time, place, and manner restriction that does not further a substantial
10 government interest and does not leave open ample alternative channels of
11 communication.

12 50. Defendant's policy of requiring speakers to "check in" with Library
13 staff prior to engaging in protected activity, as well as leaving the decision of
14 whether to allow a person to engage in petitioning activity on Library grounds to
15 the sole discretion of Library staff without any guiding principles or standards,
16 serves as an unlawful prior restraint and violates Mr. Deans's First Amendment
17 rights.

18 51. Defendant's policy of banning Library patrons for one year for
19 "failure to comply with reasonable staff instruction" is an unreasonable time,
20 place, and manner restriction that does not further a substantial government
21 interest and does not leave open ample alternative channels of communication.

22 52. Defendant's conduct of directing CSN officers to issue a Notice of
23 Trespass forbidding Mr. Deans from visiting any public library in Clark County for
24 at least one year due to his constitutionally protected petitioning activity is
25 unconstitutional and violates his First Amendment rights to freedom of speech
26 and expression, and freedom of petition.
27

1 53. Defendant's conduct of enforcing the unconstitutional Notice of
2 Trespass is unconstitutional and violates his First Amendment rights to freedom of
3 speech and expression, and freedom of petition.

4 54. Mr. Deans suffered injury by these constitutional violations and is
5 entitled to relief.

6 **6.2 SECOND CLAIM FOR RELIEF**
7 **Violation of Nevada Const., Art. 1, § 9.**
8 **(Free Speech)**

9 55. Mr. Deans repeats and realleges each and every allegation in the
10 preceding paragraphs as if set forth fully herein.

11 56. The plaza adjacent to the Library where Deans gathered signatures
12 to petition the government and where he instructed citizens how to register to
13 vote is a traditional public forum which affords the greatest degree of protection
14 under Art. 1, § 9 of the Nevada Constitution.

15 57. Defendant's policy of excluding all but a small section of the Plaza
16 for petitioning activity is a content-based restriction on protected speech that
17 serves no identifiable compelling governmental interest, and even if it did, the
18 policy is not sufficiently narrowed.

19 58. In the alternative, Defendant's policy of excluding all but a small
20 section of the Plaza for petitioning activity is an unreasonable time, place, and
21 manner restriction that does not further a substantial government interest and
22 does not leave open ample alternative channels of communication.

23 59. Defendant's policy of excluding all but a small section of the Plaza
24 for petitioning activity is an unlawful restriction on Mr. Deans's free speech rights.

25 60. Defendant's policy of requiring speakers to "check in" with Library
26 staff prior to engaging in First Amendment activity is a content-based restriction
27

1 on protected speech that serves no identifiable compelling governmental
2 interest, and even if it did, the policy is not sufficiently narrowed.

3 61. Alternatively, Defendant's policy of requiring speakers to "check in"
4 with Library staff prior to engaging in First Amendment activity is an unreasonable
5 time, place, and manner restriction that does not further a substantial
6 government interest and does not leave open ample alternative channels of
7 communication.

8 62. Defendant's policy of requiring speakers to "check in" with Library
9 staff prior to engaging in protected activity, as well as leaving the decision of
10 whether to allow a person to engage in petitioning activity on Library grounds to
11 the sole discretion of Library staff without any guiding principles or standards,
12 serves as an unlawful prior restraint and violates Mr. Deans's rights under Art. 1,
13 § 9 of the Nevada Constitution.

14 63. Defendant's policy of banning Library patrons for one year for
15 "failure to comply with reasonable staff instruction" is an unreasonable time,
16 place, and manner restriction that does not further a substantial government
17 interest and does not leave open ample alternative channels of communication.

18 64. Defendant's conduct of directing CSN officers to issue a Notice of
19 Trespass forbidding Mr. Deans from visiting any public library in Clark County for
20 at least one year due to his constitutionally protected petitioning activity is
21 unconstitutional and violates his rights to freedom of speech and expression, and
22 freedom of petition under Art. 1, § 9 of the Nevada Constitution.

23 65. Defendant's conduct of enforcing the unconstitutional Notice of
24 Trespass is unconstitutional and violates his rights to freedom of speech and
25 expression, and freedom of petition under Art. 1, § 9 of the Nevada Constitution.

26 66. Mr. Deans suffered injury by these constitutional violations and is
27 entitled to relief.

1 74. Mr. Deans suffered injury by these constitutional violations and is
2 entitled to relief.

3 **7.0 PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff respectfully seeks judgment as follows:

- 5 A. A declaration that the Notice of Trespass issued by Defendants is
6 unconstitutional under the First Amendment of the United States
7 Constitution, and article 1, § 9 of the Nevada Constitution;
- 8 B. A declaration that Defendants' actions in enforcing the Notice of
9 Trespass is unconstitutional under the First Amendment of the United
10 States Constitution, and article 1, § 9 of the Nevada Constitution;
- 11 C. A declaration that the provision of the Petition Policy requiring
12 petitioners to check in before they may petition on library grounds is
13 unconstitutional under the First Amendment of the United States
14 Constitution, and article 1, § 9 of the Nevada Constitution.
- 15 D. A declaration that Defendant's designated petitioning spot at the
16 Library entrance plaza is unconstitutional under the First Amendment
17 of the United States Constitution, and article 1, § 9 of the Nevada
18 Constitution.
- 19 E. A declaration that Defendant's Rule of Conduct forbidding "failure
20 to comply with reasonable staff instruction" is unconstitutionally
21 vague under the Fourteenth Amendment of the United States
22 Constitution, and article 1, § 8 of the Nevada Constitution.
- 23 F. A declaration that Defendant's designated petitioning spot at the
24 Library entrance plaza is unconstitutionally vague under the
25 Fourteenth Amendment of the United States Constitution, and
26 article 1, § 8 of the Nevada Constitution.
- 27

- 1 G. A preliminary and permanent injunction enjoining Defendant from
- 2 enforcing the Notice of Trespass against Plaintiff;
- 3 H. A preliminary and permanent injunction enjoining Defendant from
- 4 interfering with Plaintiff's right to lawfully engage in constitutionally
- 5 protected expression and activity within Clark County, Nevada.
- 6 I. Damages in an amount to be determined at trial;
- 7 J. An award of attorneys' fees and expenses under 42 U.S.C. § 1988;
- 8 and,
- 9 K. Any further relief the Court deems appropriate.

10 **DEMAND FOR JURY TRIAL**

11 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff
12 demands a trial by jury on all causes of action.

13
14 Dated: February 15, 2017

Respectfully Submitted,

RANDAZZA LEGAL GROUP, PLLC

/s/ Marc J. Randazza

Marc J. Randazza, NV Bar # 12265
D. Gill Sperlein (*admitted pro hac vice*)
Alex J. Shepard, NV Bar # 13582
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*Attorneys for Plaintiff,
William Deans*

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VERIFICATION

I, WILLIAM DEANS, being first duly sworn, depose and say:

- 1. I am over the age of 18 years;
- 2. I am the Plaintiff in this action;
- 3. I have read the foregoing Verified First Amended Complaint and know the contents thereof; and
- 4. The foregoing Verified Complaint is true and correct to the best of my knowledge, information, and belief.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 2/15/2017 _____.

DocuSigned by:

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William Deans

CASE NO: 2:16-cv-02405-APG-PAL

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 15, 2017, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that a true and correct copy of the foregoing document is being served via transmission of Notices of Electronic Filing generated by CM/ECF.

Respectfully submitted,



Employee,
Randazza Legal Group, PLLC

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