

IN THE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

KRISTOPHER BILBREY,)	
)	
)	
Plaintiff,)	
)	
v.)	No. 1:23-cv-01259
)	
JOHN M. SPROLES, in his official capacity))	
as Sheriff of Henry County, Indiana,)	
)	
Defendant.)	

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND DAMAGES

Introductory Statement

1. Like many public officials, Sheriff John M. Sproles—the first-term Sheriff of Henry County, Indiana—maintains a Facebook page through which he posts information about the policies, programs, and personnel of the Henry County Sheriff’s Office. While the page was initially created to support his campaign for office, when he took office in January of 2023, he retitled the page “John M. Sproles - Henry County Sheriff” and virtually all of the page’s content since that time concerns his on-duty activities. In fact, a large number of his posts include images of him in uniform and many are made during normal business hours when one would expect him to be performing only on-duty functions. In other words, despite the fact that Sheriff Sproles’s Facebook page was initially created as a candidate page, it has since become his official governmental page and is therefore subject to the constraints of the First Amendment.

2. Kristopher Bilbrey is a political commentator who hosts or co-hosts multiple podcasts devoted to issues of national, state, and local interest. When he noticed that Sheriff Sproles had posted to his official Facebook page a short excerpt from a video that Mr. Bilbrey had taken for

one of his podcasts, Mr. Bilbrey utilized Facebook’s “comment” function to express his concern that the video had been republished without attribution and that it was apparently being utilized as support for a position that the video did not support. Within an hour, Sheriff Sproles first deleted Mr. Bilbrey’s comment and then “blocked” Mr. Bilbrey from his official Facebook page altogether. His action in blocking Mr. Bilbrey means that Mr. Bilbrey can no longer even view the Facebook page, let alone post comments to it. Since that time, Mr. Bilbrey has learned that other Facebook users have similarly been blocked from the page due to the viewpoints that they have expressed.

3. Sheriff Sproles’s actions violate Mr. Bilbrey’s rights to engage in expressive activity and to receive information, both of which are cognizable under the First Amendment to the United States Constitution. Mr. Bilbrey is entitled to declaratory and injunctive relief. He is also entitled to his damages.

Jurisdiction, Venue, and Cause of Action

4. The Court has jurisdiction of this case pursuant to 28 U.S.C. § 1331.

5. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

6. Declaratory relief is authorized by Rule 57 of the Federal Rules of Civil Procedure and 28 U.S.C. §§ 2201 and 2202.

7. This action is brought pursuant to 42 U.S.C. § 1983 to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States.

Parties

8. Kristopher Bilbrey is an adult resident of Delaware County, Indiana.

9. John M. Sproles is the duly elected Sheriff of Henry County, Indiana. He is sued in his official capacity.

Factual Allegations

Kristopher Bilbrey and his podcasts

10. Kristopher Bilbrey is a political commentator who hosts or co-hosts multiple podcasts devoted to issues of national, state, and local interest.

11. Along with two other individuals, Mr. Bilbrey hosts a weekly podcast titled “The Bastards of Politics,” which focuses on exposing governmental corruption and ineptitude, ensuring that the principles embodied in the United States Constitution are upheld, and encouraging listeners to become informed and involved in the political arena.

12. Episodes of “The Bastards of Politics” air live on YouTube (at <https://www.youtube.com/@TheBastardsofPolitics>) and are recorded and subsequently available for viewing on YouTube. An audio-only version of each episode is also made available through Apple Podcasts, Google Podcasts, and other platforms.

13. Additionally, Mr. Bilbrey hosts a separate podcast five nights a week. This podcast is called “Bilbrey LIVE!” and also airs live on the @TheBastardsofPolitics YouTube channel. After airing, recorded episodes of “Bilbrey LIVE!” are also available for viewing on YouTube, and audio-only versions of each episode are made available through various platforms.

14. More than 16,000 persons subscribe to the @TheBastardsofPolitics YouTube channel, and many individual videos have been viewed more than a thousand times.

15. Because of his involvement in hosting and co-hosting these podcasts, it is extremely important for Mr. Bilbrey to remain well informed about issues of national, statewide, and local significance, and to have access to public statements made by governmental officials as well as to persons’ reactions to those statements.

Sheriff John M. Sproles and his official Facebook page

16. Sheriff John M. Sproles is the first-term Sheriff of Henry County. He was elected in

November of 2022 and took office in January of 2023. He is serving a four-year term, and the next election, assuming he runs for reelection, is therefore not until 2026.

17. Like many public officials, Sheriff Sproles maintains and operates an official Facebook account. His official Facebook page is available at <https://www.facebook.com/profile.php?id=100079206185663>. This page is referenced throughout this complaint as Sheriff Sproles’s “official Facebook page.”

18. Sheriff Sproles’s official Facebook page can be viewed by the public, and anyone with a Facebook account can post a “comment” in response to his “posts” or in response to other user comments that have been made on those posts.

19. The formal title of this official Facebook page, which is prominently displayed on the page, is “John M. Sproles - Henry County Sheriff.” Identical language appears at the top of the page:



20. Sheriff Sproles’s official Facebook page was originally created as a so-called “political candidate page” in order to support his candidacy for Henry County Sheriff. However, on December 31, 2022—the day before he took office—he formally changed the name of the page

from “John Sproles for Henry County Sheriff” to “John M. Sproles, Henry County Sheriff.” Since that time, the page’s name has been changed only cosmetically to replace the comma with a hyphen (“John M. Sproles - Henry County Sheriff”).

21. Since taking office, Sheriff Sproles has used the page to regularly post information on law enforcement activities and programs in Henry County, on policy initiatives, and on other matters of importance to his constituents.

22. For instance, over the past several months Sheriff Sproles has utilized his official Facebook page to congratulate graduates of the Henry County Jail Chemical Addiction Program, to provide information about promotions and retirements of persons employed by the Henry County Sheriff’s Office, to highlight programs such as the Henry County Sheriff’s Youth Camp, and to describe a visit to the Indiana Statehouse to advocate against a bill that, in his estimation, would have limited the control of county sheriffs over certain matters.

23. Indeed, Sheriff Sproles regularly utilizes his official Facebook page to disseminate press releases that are clearly being made in his capacity as Henry County Sheriff. For instance, on July 10, 2023, he made a lengthy post about a recent directive of the Henry County Sheriff’s Office to no longer respond to non-emergency calls in towns within Henry County that employ town marshals. This statement was signed “John M. Sproles, Henry County Sheriff” and was accompanied by the following image:



24. A significant number of Sheriff Sproles's posts to his official Facebook page feature him or other law enforcement officers in their official uniforms, and many of the posts are made during normal business hours when Sheriff Sproles would be expected to be performing only official duties.

25. In other words, even though Sheriff's Sproles's official Facebook page was initially created as a page related to his campaign for office, it has since become his official governmental page. In fact, Sheriff Sproles maintains a separate "personal" Facebook page that is not at issue in this litigation.

Sheriff Sproles's "blocking" of Mr. Bilbrey from his official Facebook page

26. As indicated, Sheriff Sproles has recently imposed a directive whereby the Henry County Sheriff's Office will no longer respond to non-emergency complaints from persons in towns that employ town marshals. In multiple posts to his official Facebook page, as well as in various other public statements, he has explained this decision by expressing his concern that some town marshals have obtained their positions primarily to receive well-paying part-time employment as security officers in larger cities such as Indianapolis. In making these statements, Sheriff Sproles has strongly implied that town marshals have neglected the duties of their office.

27. Mr. Bilbrey believes strongly that smaller law enforcement agencies play a vital role in their communities but that they are often understaffed or underfunded such that assistance from county sheriff's departments is often necessary to ensure the safety and wellbeing of the community. He is not aware of any town marshals who obtained their positions in order to receive well-paying part-time employment as security officers while neglecting the persons they are obligated to serve, nor is he aware of any local law enforcement officials who have been arrested by Sheriff Sproles or his office for violating Indiana's ghost-employment law, Indiana Code § 35-

44.1-1-3, which generally prohibits government officials from accepting property for duties that they did not perform.

28. Sheriff Sproles's directive generated significant local interest and received the attention of local law enforcement officials throughout Henry County. Due both to his interest in local politics and his role as a political commentator who hosts or co-hosts multiple podcasts, Mr. Bilbrey has followed the issue closely.

29. On July 10, 2023, Mr. Bilbrey attended a public meeting of the Greensboro Town Council. Greensboro is a small town located in Henry County.

30. During this meeting, Chris Pickens, the Chief of the Greensboro Police Department, gave a lengthy statement in response to Sheriff Sproles's criticisms of local law enforcement officials. He defended both the role of these officials and their commitment to their communities, and explained to the Greensboro Town Council that Sheriff Sproles does not have any authority to exercise supervisory control over him or the Greensboro Police Department. In total, Chief Pickens spoke during the meeting for approximately ninety minutes, including some statements and questions from members of the Greensboro Town Council and other persons present at the meeting.

31. Mr. Bilbrey took a video recording of this meeting, which he posted the following day (July 11, 2023) to the @TheBastardsofPolitics YouTube channel as an episode of "Bilbrey LIVE!" As posted, the video included not only Chief Pickens's complete statement (and the statements of other persons present) but also an introduction displaying first the logo for the "Bilbrey LIVE!" podcast and then written language introducing the dispute between Sheriff Sproles and Chief Pickens. The same language was also added to the end of the video. And, during Chief Pickens's statement, Mr. Bilbrey added language and a logo—"Bilbrey Live"—to indicate that the video was

taken for and disseminated as a part of his podcast.

32. The following day, Sheriff Sproles posted a portion of Mr. Bilbrey's video to his own official Facebook page. Despite the fact that Chief Pickens spoke for approximately ninety minutes, Sheriff Sproles posted only a 36-second excerpt of Chief Pickens's statement. He also removed the language and logo indicating that the video was taken for and disseminated as a part of the "Bilbrey LIVE!" podcast. And he added to the Facebook post a lengthy statement—which he titled "Town Marshall Scam Scheme" and signed "John M. Sproles, Henry County Sheriff"—reiterating the opinions that had resulted in his decision to cease responding to non-emergency calls in towns with town marshals.

33. The opinions voiced by Sheriff Sproles in this Facebook post were contrary to those voiced by Chief Pickens during the meeting of the Greensboro Town Council and were contrary to Mr. Bilbrey's opinions that caused him to share the video of that meeting through his podcast.

34. Upon seeing Sheriff Sproles's Facebook post, Mr. Bilbrey was extremely concerned about two things. First, he was concerned that a small excerpt from a lengthy video was being taken out of context and was apparently being used to support a position contrary to the point of the video. And second, he was concerned that the video had been edited to remove the language and logo associating the video with Mr. Bilbrey's podcast and that it was being disseminated without either permission or attribution.

35. Mr. Bilbrey therefore utilized Facebook's comment function to comment on Sheriff Sproles's Facebook post. In his comment, Mr. Bilbrey made clear that the video was being used without his permission to support a position that ran contrary to the point of the video. He then asked Sheriff Sproles to either (a) edit his Facebook post to credit Mr. Bilbrey and to state that Sheriff Sproles's comments had nothing to do with the video or (b) remove the video from his

official Facebook page altogether.

36. While Mr. Bilbrey's comment was certainly critical of Sheriff Sproles, it was not threatening, profane, or otherwise inappropriate in any manner.

37. Less than an hour after Mr. Bilbrey left this comment, Sheriff Sproles first deleted the comment itself and then "blocked" Mr. Bilbrey from the official Facebook page altogether. This action caused the deletion of Mr. Bilbrey's comment and all other comments that he previously left on the Facebook page. It also prevents Mr. Bilbrey from even seeing or visiting Sheriff Sproles's official Facebook page, and certainly prevents him from commenting on any posts or comments to those posts made in the future.

38. Mr. Bilbrey remains blocked from Sheriff Sproles's official Facebook page to this day.

39. Sheriff Sproles's action in blocking Mr. Bilbrey from his official Facebook page was taken exclusively due to the content or viewpoint expressed in Mr. Bilbrey's comment. There was no justification for this censorship.

40. Prior to posting the comment that led to him being blocked from Sheriff Sproles's official Facebook page, on several occasions Mr. Bilbrey had commented on the page. Some of these comments were supportive of Sheriff Sproles, some were critical, and some were neither supportive nor critical but simply sought to share or request information relevant to a particular Facebook post. Several of the non-supportive comments were deleted by Sheriff Sproles due exclusively to the viewpoint expressed in those comments.

41. Some time after Mr. Bilbrey was blocked from Sheriff Sproles's official Facebook page, Sheriff Sproles added the following language to the page:

This is not an official government page. I am speaking as a private individual.

Notwithstanding this language, which was not present at the time that Mr. Bilbrey's comment was

deleted from the page or the time that Mr. Bilbrey was blocked from the page altogether, the page remains very much an official government page and anyone viewing the page would understand that Sheriff Sproles was posting to the page in his capacity as Henry County Sheriff. Indeed, as noted, Sheriff Sproles maintains an entirely separate “personal” Facebook page that is not at issue in this litigation.

42. Since Mr. Bilbrey was blocked from Sheriff Sproles’s official Facebook page, he has learned that many other persons have similarly been blocked from the page after they expressed sentiments that were not supportive of Sheriff Sproles.

Concluding factual allegations

43. As noted, Mr. Bilbrey considers himself to be heavily involved in national, state, and local politics and is concerned about issues of importance to his community and his state as well as about the actions and positions of governmental officials. He would like to be able to once again comment on posts made to Sheriff Sproles’s official Facebook page (as well as on comments made to those posts), and would also like his previous comments to be restored so that Facebook users may view these comments.

44. Additionally, Mr. Bilbrey believes strongly in full and open debate on public issues and would like to be able to view any comments previously made that have been removed from the Facebook page and to view comments posted by other persons who have been blocked from the page. Mr. Bilbrey’s inability to view these comments impinges on his right, cognizable under the First Amendment, to receive information.

45. At all times the defendant has acted under color of state law.

46. As a result of the actions or inactions of the defendant, the plaintiff is suffering irreparable harm for which there is no adequate remedy at law.

47. As a result of the actions or inactions of the defendant, the plaintiff has suffered damages.

Legal Claim

48. The actions of the defendant violate the First Amendment to the United States Constitution.

Request for Relief

WHEREFORE, the plaintiff requests that this Court do the following:

1. Accept jurisdiction of this cause and set it for hearing.
2. Declare that the defendant has violated the rights of the plaintiff for the reason(s) described above.
3. Issue a preliminary injunction, later to be made permanent, enjoining the defendant (a) to unblock the plaintiff from his official Facebook page, (b) to unblock any other users that have been blocked as a result of the content or viewpoint of their speech, (c) to restore any and all deleted comments to the page, and (d) from blocking Facebook users or deleting comments in the future based on the content or viewpoint expressed by the users.
4. Award the plaintiff his damages, including nominal damages.
5. Award the plaintiff his costs and attorneys' fees pursuant to 42 U.S.C. § 1988.
6. Award all other proper relief.

Gavin M. Rose
ACLU of Indiana
1031 E. Washington St.
Indianapolis, IN 46202
317/635-4059
fax: 317/635-4105
grose@aclu-in.org

Attorney for the plaintiff