

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

WILLIAM REYNOLDS,)	
)	
Plaintiff,)	
)	
v.)	No. 1:21-cv-1843
)	
MAYOR STEVE BARNETT, in his official)	
capacity,)	
)	
Defendant.)	

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Introductory Statement

1. Like many public officials, Steve Barnett—the elected mayor of the City of Franklin—maintains and operates a Facebook account. Although Mayor Barnett’s Facebook page is nominally a “personal page,” in reality he uses the account to regularly post information about his activities as mayor, about events and other initiatives in the City of Franklin, and about other matters of relevance to his constituents. In other words, Mayor Barnett’s Facebook page serves as his official governmental account. While Mayor Barnett generally allows other Facebook users to view and comment on his Facebook posts, as well as to “tag” him in their own Facebook posts, when William Reynolds tagged Mayor Barnett in a post that highlighted Mayor Barnett’s past support for the Black Lives Matter movement he was swiftly “blocked” from Mayor Barnett’s Facebook page. This action not only removes Mr. Reynolds’s ability to tag Mayor Barnett in a Facebook post—an action, available to all Facebook users that have not been blocked, that ensures that a tagged user will be notified of the post—but also prohibits him from viewing Mayor Barnett’s

Facebook page or any of the posts on that page and from commenting on any of those posts. Mayor Barnett's actions against Mr. Reynolds represent unjustifiable content and viewpoint discrimination that runs afoul of the First Amendment to the United States Constitution. Appropriate declaratory and injunctive relief must issue.

Jurisdiction, Venue, and Cause of Action

2. The Court has jurisdiction of this case pursuant to 28 U.S.C. § 1331.
3. Venue is proper in this district pursuant to 28 U.S.C. § 1391.
4. Declaratory relief is authorized by Rule 57 of the Federal Rules of Civil Procedure and 28 U.S.C. §§ 2201 and 2202.
5. 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

6. William Reynolds is an adult person currently residing in Henderson County, Kentucky after recently residing in Franklin, Indiana. He anticipates returning to reside in Franklin, Indiana in the future.
7. Mayor Steve Barnett is the duly elected mayor of City of Franklin, a municipality located in Johnson County, Indiana. He is sued in his official capacity.

Factual Allegations

8. Facebook.com ("Facebook") is a social media platform that allows users to create and maintain user-specific pages to "post"—and thereby disseminate—videos, photographs, messages, or other information to persons identified as their "friends" on Facebook and to other individuals or to the public at large. A user's Facebook page is occasionally referenced as that user's "profile" or "timeline."

9. Facebook also allows users to interact with other individuals in at least three different manners. First, users may make “comments” to Facebook posts or to other comments that have been made on Facebook posts. Second, users may “share” Facebook posts that have been made by other individuals or organizations, thereby causing someone else’s Facebook post to appear on a user’s own Facebook page and thus increasing the number of persons who view that Facebook post. And third, users may “tag” another Facebook user in a Facebook post or in a comment to a Facebook post.
10. When an individual is “tagged” in someone else’s Facebook post, his or her username appears and a hyperlink is created that enables any person viewing the post to click on the tagged user’s name and visit that user’s own Facebook page. In addition, Facebook generates an “alert” that notifies the tagged user that he or she has been tagged in someone else’s Facebook post or comment and that allows the tagged user to easily view the post or comment in which he or she has been tagged. And, under certain circumstances, a Facebook post in which a user is tagged will appear on the tagged user’s Facebook page.
11. An individual who is tagged in another user’s Facebook post or comment has the ability to “untag” him- or herself from that post or comment, which serves to remove the hyperlink that is created and to ensure that any Facebook post in which the user has been tagged does not appear on the tagged user’s Facebook page. This action is also known as “removing a tag.”
12. When a Facebook user is tagged in the Facebook post of an individual who is not identified as one of the tagged user’s Facebook friends, the post will not appear on the Facebook page of the tagged user unless the tagged user specifically approves the tag and thereby allows it to appear on his or her Facebook page. Even when a Facebook user is tagged in the

Facebook post of an individual who is identified as one of the tagged user's Facebook friends, Facebook has an option that may be selected by users—called “Timeline Review”—that, once enabled, allows users to review (and to either approve or disapprove) posts that they are tagged in before those posts appear on the tagged user's Facebook page.

13. In addition to these options, once a post appears on a user's Facebook page, regardless of whether it appears on the page because it was created by the user him- or herself or because the user was tagged in a post created by another individual, Facebook allows the user to “remove” the post from his or her Facebook page.
14. Steve Barnett is the elected mayor of the City of Franklin, Indiana. He was most recently elected to that position in 2019, and his current term of office runs through 2023.
15. Like many public officials, Mayor Barnett maintains and operates a Facebook page.
16. Although Mayor Barnett's Facebook page was nominally created as a “personal” Facebook page rather than as the “official” Facebook page of the Mayor's Office, Mayor Barnett identifies himself on his Facebook page as the Mayor of the City of Franklin and, in reality, he uses this Facebook page primarily to provide information to his constituents about information of relevance to the Franklin community and to perform other official functions.
17. By way of example only, on June 15, 2021, Mayor Barnett used his Facebook page to advertise an event—called the Franklin Firecracker Festival—that the City of Franklin is hosting on July 3rd. On June 14, 2021, he shared a Facebook post created by Discover Downtown Franklin, a nonprofit organization that works closely with the City of Franklin to vitalize and promote the downtown area, concerning that organization's efforts to beautify downtown. At least three times in June 2021, he has shared posts from the separate Facebook page of the the Franklin Parks and Recreation Department, an agency under

Mayor Barnett's control, concerning the opening and hours of the Franklin Family Aquatic Center. And on June 4, 2021, he shared a post from the separate Facebook page of the City of Franklin promoting the presence of a replica of the Vietnam Veterans Memorial at the Johnson County Fairgrounds. In addition to sharing this last post, Mayor Barnett included a message that stated, "I hope all take the time to go visit."

18. In addition to Mayor Barnett's own Facebook posts, numerous other officials and private citizens recognize the official nature of Mayor Barnett's Facebook page by tagging him in their own posts concerning official activities and events in the City of Franklin. For instance, and again by way of example only, on June 15, 2021 the Franklin Police Chief shared a post from the separate Facebook page of the City of Franklin Police Department concerning gratitude to the police department that had been expressed by several local children and, in so doing, tagged Mayor Barnett. On June 13, 2021, one of the board members of the Johnson County Convention, Visitor, and Tourism Board tagged Mayor Barnett and others to express his gratitude for their assistance in creating, promoting, and putting on "a downtown festival that was centered around a car show." And on June 7, 2021, a citizen tagged Mayor Barnett in a post congratulating her husband on a promotion within the Franklin Police Department, which included a picture of her spouse with Mayor Barnett in front of the seal of the City of Franklin.
19. Despite the ability to do so, Mayor Barnett has not taken any action to cause these posts in which he has been tagged to be omitted or removed from his Facebook page.
20. In addition, many of Mayor Barnett's posts to his Facebook page are made during normal business hours when one would expect him to be performing official functions on behalf of the City of Franklin.

21. Until recently, William Reynolds was a resident of Franklin. Due to financial hardships that he has been experiencing, Mr. Reynolds has temporarily relocated to Kentucky to live with family members. However, he intends to return to live in Franklin as soon as he is able to do so and is heavily invested in the Franklin community.
22. Mr. Reynolds is a user of Facebook and maintains and operates his own Facebook page.
23. In late May of 2020, in the wake of the murder of George Floyd in Minneapolis, Mr. Reynolds met Mayor Barnett at a protest in Franklin that had been organized to support the Black Lives Matter movement and to oppose systemic racism and the manner in which systemic racism has negatively influenced police actions towards persons and communities of color.
24. During this protest, Mayor Barnett carried a colorful poster stating “Black Lives Matter” and even led a sizeable crowd in a chant of “Black Lives Matter.” Mr. Reynolds took a video recording of portions of the protest, including these actions of Mayor Barnett.
25. At or around the same time, several residents of Franklin, including Mr. Reynolds, approached Mayor Barnett and suggested the formation of a coalition to address racial inequities in Franklin. From here, the Franklin Equity and Justice Coalition—an unincorporated group of private citizens dedicated to such issues—was formed. Among other things, a Facebook “group” was created for the Franklin Equity and Justice Coalition. The group’s Facebook page is accessible at <https://www.facebook.com/Franklinequityandjustice>. This Facebook page, and the material posted to this Facebook page, is viewable by any member of the public.
26. Although Mr. Reynolds played only a limited role in meetings organized by or with the Franklin Equity and Justice Coalition, he is extremely dedicated to the group’s mission.

Since shortly after the group was formed he has been a member of the Facebook group and he has therefore been able to make posts to the group's Facebook page.

27. On May 3, 2021, Mr. Reynolds posted a 92-second video to the Facebook page of the Franklin Equity and Justice Coalition. The video is available at <https://www.facebook.com/groups/355908675560644/permalink/497941004690743>.

28. The video posted by Mr. Reynolds begins with several written messages, including the following:

The City of Franklin believes that science is real

The City of Franklin celebrates diversity

The City of Franklin in working to end food insecurity

The City of Franklin believes that Black lives matter

The City of Franklin welcomes our immigrant neighbors with open arms


The City of Franklin stands with our LGBTQIA+ siblings

The City of Franklin stands against white supremacy

The video then contains still images of three public officials in Franklin and Johnson County—the Johnson County Sheriff, the Franklin Police Chief, and Mayor Barnett—holding or standing behind signs indicating that “Black Lives Matter.” And it concludes with video footage of Mayor Barnett leading the crowd in a chant of “Black Lives Matter” that was taken during the protests that occurred in the wake of George Floyd’s murder.

29. The video is not threatening, defamatory, vulgar, or in any way inappropriate. Rather, it seeks only to portray Franklin as a welcoming city and to underscore the commitment to diversity of many Franklin citizens.

30. Along with the video, Mr. Reynolds posted the following text to the Facebook page of the

Franklin Equity and Justice Coalition: “We CAN do this together  #communitypartnershipwins.” He also tagged Mayor Barnett in the post.

31. Due to his interactions with Mayor Barnett in May 2020, Mr. Reynolds became one of Mayor Barnett’s Facebook friends. Therefore—because, as indicated, Mayor Barnett has not selected the option available through Facebook to allow him to review all posts in which he is tagged before they appear on his Facebook page—Mr. Reynold’s action in tagging Mayor Barnett caused the post, including the video, to automatically appear on Mayor Barnett’s Facebook page.
32. Mayor Barnett promptly untagged himself from Mr. Reynold’s post, thereby causing the removal of the post from his own Facebook page and ensuring that any viewer of the post could not conveniently and immediately click on a link to Mayor Barnett’s Facebook page.
33. Shortly thereafter, Mr. Reynolds again tagged Mayor Barnett in the same Facebook post. Mayor Barnett promptly responded to this action by not only untagging himself from the post but by “blocking” Mr. Reynolds entirely. As a result of this action, Mr. Reynolds is not able to view any of the content on Mayor Barnett’s Facebook page, is not able to post comments on any posts on Mayor Barnett’s Facebook page, and is not able to tag Mayor Barnett in any of Mr. Reynolds’s own Facebook posts. To this day, Mr. Reynolds remains blocked from Mayor Barnett’s Facebook page.
34. Mayor Barnett’s action in blocking Mr. Reynolds from viewing his (Mayor Barnett’s) Facebook page was taken solely as a result of Mr. Reynold’s decision to share true information concerning Mayor Barnett’s support for the Black Lives Matter movement and for the cause of racial justice. This constitutes discrimination based on the viewpoint and content of Mr. Reynold’s speech. There is no justification for this discrimination.

35. As indicated, Mr. Reynolds remains highly invested in the Franklin community. His desire to keep in touch with this community and to receive information about it is heightened by the physical distance that now exists between himself and the city that he regards as his home. He therefore wishes to be able to view the content of Mayor Barnett's Facebook page, which he understands to contain a significant amount of resources, information, and news of relevance to the Franklin community. If and when appropriate, he also wishes to be able to make comments on posts that appear on Mayor Barnett's Facebook page and to be able to draw Mayor Barnett's attention to his (Mr. Reynolds's) own posts by "tagging" Mayor Barnett in those posts.
36. As a result of the actions or inactions of Mayor Barnett, Mr. Reynolds is suffering irreparable harm for which there is no adequate remedy at law.
37. At all times Mayor Barnett has acted under color of state law.

Legal Claims

38. The actions of Mayor Barnett violate Mr. Reynolds's rights under the First Amendment to the United States Constitution.

Request for Relief

WHEREFORE, the plaintiff respectfully requests that this Court:

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 described above.
3. Issue a preliminary injunction, later to be made permanent, (a) requiring the defendant to "unblock" the plaintiff from viewing or commenting on the defendant's Facebook page, (b) prohibiting the defendant from "blocking" the plaintiff in the future based on the

content or viewpoint of the plaintiff's speech, and (c) prohibiting the defendant from "untagging" himself in Facebook posts created by the plaintiff.

4. Award the plaintiff his costs and attorneys' fees pursuant to 42 U.S.C. § 1988.
5. Award all other proper relief.

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