

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

(1) RAJA'EE FATIHAH

Plaintiff,

vs.

Case No. **16-CV-58-KEW**

(1) CHAD NEAL

(d.b.a. SAVE YOURSELF SURVIVAL
AND TACTICAL GUN RANGE),

(2) NICOLE MAYHORN NEAL

(d.b.a. SAVE YOURSELF SURVIVAL
AND TACTICAL GUN RANGE),

Defendants.

**COMPLAINT FOR INJUNCTIVE
RELIEF AND SUPPLEMENTAL STATE
TORT RELIEF**

Plaintiff Raja'ee Fatihah, by and through his attorneys, brings this action because Defendants denied him access to the use and enjoyment of their place of public accommodation based on his religion. In support of this action, Plaintiff alleges and states as follows:

PRELIMINARY STATEMENT

1. Defendants run an explicitly segregated business. A sign posted on their business's front window announces that Muslims are not permitted at Defendants' store and gun range. This store and range is otherwise operated as a place of public accommodation. It is open to, and reliant on, the patronage of the general public.

2. Beginning in October 2015, Plaintiff Fatihah sought to practice shooting at Defendants' business. Fatihah serves in the United States Army Reserve and enjoys recreational shooting. Fatihah has been denied access to Defendants' business and refused service by them based solely on his adherence to the Muslim faith.

3. By operating a segregated place of public accommodation, Defendants violate both the letter and spirit of the Civil Rights Act of 1964 and Oklahoma anti-discrimination law. Both bodies of law exist to further the guarantees of equality embodied in the United States Constitution. Equality is one of the most important rights in our nation and among the most foundational principles on which strong communities are founded. Moreover, Defendants' practice of segregation based on religion is an affront to fundamental principles of religious freedom.

4. This action seeks to remedy these violations and restore equal access to public accommodations for Oklahomans of all faiths.

JURISDICTION AND VENUE

5. Subject matter jurisdiction is proper in this Court as this suit is brought as a civil action seeking remedy for deprivation of rights protected by the Civil Rights Act, 42 U.S.C. §§ 2000a-2000a-6. As such, Plaintiff's claim for relief raises a federal question under 28 U.S.C. § 1331.

6. Plaintiff also alleges the tort of discrimination in public accommodation under Oklahoma state law. The factual allegations supporting this claim are identical to those of the federal claim, making supplemental jurisdiction proper under 28 U.S.C. § 1367.
7. The Court has personal jurisdiction over Defendants: Defendants' residency and place of business are located in Muskogee County, within the Eastern District of Oklahoma.
8. The events and circumstances giving rise to the allegations herein are alleged to have occurred entirely in Muskogee County, within the Eastern District of Oklahoma.
9. The Eastern District of Oklahoma is the most convenient venue for all parties, being the place of residence and business for the Defendants, the site of the discrimination alleged below, and immediately adjacent to Plaintiff's place of residence in Tulsa County.

PARTIES

10. Plaintiff Raja'ee Fatihah (hereinafter "Plaintiff" or "Fatihah") is a natural person and citizen of the United States and of the State of Oklahoma. He is a native of Tulsa, Oklahoma, where he and his family reside.
11. Plaintiff serves honorably in the United States Army Reserve in a Civilian Affairs Unit. He advises unit commanders and deploys at times to both combatant and non-

combatant situations. When not on military duty, Fatihah works for the State of Oklahoma as an investigator. He previously worked for the University of Oklahoma Police Department as a Community Service Officer and participated in the Reserve Officer Training Corps (ROTC) at the University of Oklahoma. He is familiar with firearms, and enjoys shooting for sport and maintaining proficiency in marksmanship.

12. Plaintiff is a practicing Muslim. He adheres to Islamic faith and teaching, which is based on the words and religious doctrines of the Prophet Mohammed, and which holds that there is no god but God, and prescribes adherents to worship God and follow God's teachings.

13. Defendants Chad Neal and Nicole Neal operate an establishment that includes both a store and shooting range. Customers of the range pay a fee to shoot for leisure, personal entertainment, or other purposes.

14. Defendants' establishment is known as the "Save Yourself Survival And Tactical Gun Range" (hereinafter, "business").

STATEMENT OF FACTS

15. Defendants' business is located in a high-traffic location on an interchange immediately off of United States Highway 69, in Muskogee County, Oklahoma.

16. The business is easily accessible to the public, residing in a building that was previously a highway gas station and convenience store.. There is no gate or restricted access of any kind to enter the property.
17. The business is an establishment open to the general public and advertised to attract usage from the general public.
18. The business maintains regular business hours and advertises these hours prominently on the front window of the establishment.
19. The business uses commercial signage including a prominent sign on the adjacent United States Highway to advertise its service to the general traveling public.
20. Access to the business is not restricted to any group of private members. The general public can purchase "memberships" singly or for families, for day passes or yearly passes, or as gift certificates.
21. The business offers entertainment in the form of an outdoor shooting range. It also sells goods and services including, but not limited to, firearm accessories, targets, and apparel appealing to gun enthusiasts.

22. A substantial portion of the goods sold move in interstate commerce, being made or obtained outside the state of Oklahoma.
23. Firearms utilized at the business and providing the primary means of entertainment for patrons are regulated federally as articles moving in interstate commerce, as recognized in the enactment of the National Firearms Act of 1934, Omnibus Crime Control and Safe Streets Act of 1968, Gun Control Act of 1968, Firearm Owners Protection Act, and other later acts of Congress.
24. On or about July 21, 2015, Defendants posted a sign near the front entry of the business that reads as follows (reproduced here in like punctuation and orthography):

*THIS PRIVATELY OWNED
BUSINESS IS A*

*MUSLIM FREE
ESTABLISHMENT!!!*

*WE RESERVE THE RIGHT TO
REFUSE SERVICE TO ANYONE!!!*

THANK YOU!

25. On information and belief, as of the time of this filing, the “Muslim Free” sign remains posted.

26. On October 23, 2015, during regular business hours, Plaintiff entered Defendant's establishment and asked to use the range.
27. Defendant Nicole Mayhorn Neal was present at the business's main counter. She asked Fatihah to fill out a liability waiver and provide his name, address, and driver's license number.
28. Fatihah complied with Nicole Neal's request. Neal did not request any additional information or inform Fatihah of any additional process required before he could use the range.
29. At this time, Nicole Neal did not claim that any exclusive membership system existed or that any other approval was required, nor did she indicate to Fatihah that any further process was needed to use the range for entertainment purposes.
30. At the conclusion of the initial transaction and signing of the liability waiver, Fatihah then informed Mrs. Neal that he was Muslim.
31. Following Fatihah's disclosure, Mrs. Neal summoned Defendant Chad Neal, who had been in an adjacent area of the business.

32. The Defendants armed themselves with handguns and refused to allow Fatihah to use the gun range.
33. Fatihah was asked if he was at the gun range to commit an act of violence or as part of a "jihad."
34. Fatihah was accused of being there in order to murder the Defendants, as Defendants claimed that "[Fatihah's] Sharia law" required such an action.
35. Fatihah does not adhere to any religion requiring, encouraging, or even allowing the murder of a fellow human being.
36. Defendants then claimed that Plaintiff would need to have a membership application processed and approved by members of the "gun club." This is the first time the business was referred to as a club.
37. Defendant was then made to leave the gun range without receiving service.
38. No such extended membership application and approval procedure is required of non-Muslim patrons, who are able to use the range immediately on payment of the membership fee and signing of the liability waiver.

39. On information and belief, Defendants control the operation and policies of the gun range. There is no body of members who determines operation and policy.

40. As of the time of this filing, Plaintiff has not received any communication as to any alleged processing of the purported membership application.

41. Plaintiff has attempted to verify the status, if any, of his purported application by contacting Defendants' gun range. He has received no response.

CAUSES OF ACTION

42. Plaintiff incorporates all of the allegations contained in the previous paragraphs of this Complaint as though fully set forth herein.

43. Plaintiff, like all Americans and all Oklahomans, has a right to equal enjoyment of places of public accommodation.

44. Plaintiff was denied access to Defendant's place of public accommodation based on his religion, in violation of the Civil Rights Act of 1964. Specifically, Defendants have violated 42 U.S.C. §2000a by – pursuant to an explicit policy of segregation – denying Muslims service at a place of entertainment (as defined by 42 U.S.C. §2000a(b)(3)) whose operations affect commerce .

45. Defendants' operation of a segregated business violates Plaintiff's right to equal enjoyment of places of public accommodation under Oklahoma law. Specifically, Defendants' conduct constitutes discrimination in public accommodations under Oklahoma common law and as defined in 25 O.S. §§ 1401-1402.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff incorporates the allegations previously stated and makes the following prayer for relief, respectfully requesting that this Court:

46. Enter a permanent injunction ordering the Defendants to comply with the requirements of the Civil Rights Act by allowing Plaintiff equal access to Defendants' establishment without regard to his religion.

47. Enter a permanent injunction ordering Defendants to comply with the requirements of Oklahoma common law and 25 O.S. §§ 1401-1402 by allowing Plaintiff equal access to Defendants' establishment without regard to his religion.

48. Grant Plaintiff a judgment for nominal and actual money damages, including but not limited to damages for mental and emotional distress, to be determined at trial.

49. Enter a judgment for Plaintiff's costs and attorneys' fees herein against Defendants as permitted by law.

50. Any and all such further or other relief as the Court deems just and equitable against Defendants.

Respectfully submitted,

/s/ Brady Henderson

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**Pro hac vice* application forthcoming.