IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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COMPLAINT

I. Introduction

1 Plaintiffs file this civil rights action against police officers of East Lampeter Township's Police Department, state troopers from the Pennsylvania State Police and others, all of whom violated the Plaintiffs' First, Fourth and Fourteenth Amendment Rights by illegally arresting them in order to suppress a peaceful, symbolic political protest against President Bush. Plaintiffs silently formed a human pyramid of bodies, clothed only in their underwear, to recreate the shameful, humiliating and inhumane treatment reportedly endured by prisoners at the Abu Ghraib prison in Iraq Plaintiffs formed their human pyramid in a traditional public forum along

the expected motorcade route in anticipation of President George W. Bush's arrival for a campaign appearance in East Lampeter Township, Lancaster County, Pennsylvania Plaintiffs, however, were immediately arrested, physically removed from the scene and detained until after the President arrived and departed. Thereafter, Plaintiffs were charged with disorderly conduct, which charges were then withdrawn just prior to Plaintiffs' scheduled criminal trial Plaintiffs now seek declaratory relief and monetary damages for the violation of their Constitutional rights.

II. Jurisdiction

This claim concerns the violation of civil rights and this Court has jurisdiction pursuant to 28 U.S.C. §§1331 and 1343. Remedies against state and municipal defendants are provided by 42 U.S.C. § 1983

III. Venue

Venue properly lies in this Court pursuant to 28 U S C § 1391 because the events that form the basis for this Complaint occurred in this district.

IV. Parties

- 4 Plaintiffs TRISTAN P. EGOLF, ADAM CLAYTON WILLARD, JONATHAN A. KOHLER, DAVID JC OBRYANT, and BENJAMIN D. KEELY are residents of the United States of America and the State of Pennsylvania
- Defendants CHRISTOPHER WITMER, JAMES ELY, CHRISTOPHER JONES, DEB KOLB, GERALD KLING and D J KLING are police officers employed by East Lampeter Iownship in its local municipal police force. At all relevant times, these police officers acted

under color of state law in depriving Plaintiffs of their Constitutional rights. They are all sued in their individual capacities (hereinafter "East Lampeter Township Police Officers").

- 6. Defendants LINDA GERON, BLAINE HERTZOG and WAYNE KLINE are state police troopers employed by the Pennsylvania State Police At all relevant times these state troopers acted under color of state law in depriving Plaintiffs of their Constitutional rights. They are all sued in their individual capacities (hereinafter "Pennsylvania State Police Troopers")
- Upon information and belief, Defendants JOHN and / or JANE DOE 1 to 5 were municipal law enforcement officers, state law enforcement officers or state actors whose identities are currently unknown, but it is believed they took actions under color of state law or conspired to do so in order to remove certain types of protestors and / or suppress particular messages from being expressed against the President. At all relevant times, their actions occurred and / or decisions were made under color of state law and were a substantial factor in depriving Plaintiffs of their Constitutional rights. They are all sued in their individual capacities.
- Upon information and belief, Defendants JOHN and / or JANE DOE 6 to 10 were federal law enforcement officers, United States Secret Service agents and / or members of President George W Bush's White House advance team, whose identities are currently unknown. It is believed they too acted to violate Plaintiffs' constitutional rights or conspired to do so in order to remove certain types of protestors and / or suppress particular messages from being expressed against the President. At all relevant times, their actions occurred and / or decisions were made in their capacities as federal employees or agents and were a substantial factor in the violation of Plaintiffs' constitutional rights. They are all sued in their individual capacities.

IV. Facts

- 9 On July 9, 2004, President George W. Bush was in Lancaster County, Pennsylvania to make a campaign appearance at Lapp Electrical Service, a business in East Lampeter Township.
- Lapp Electrical Service is located along Route 340 near Smoketown, a small village in the Township
- The President was traveling in a bus and it was anticipated he would arrive at Lapp Electrical Service between 2:00 p.m. and 3:00 p.m.
- In anticipation of the President's arrival, many people gathered along route 340 in areas that had been opened up to the public
- Plaintiffs gathered along route 340 near Lapp Electrical Service with the intention of expressing their views against the President and his policies, particularly the President's policies related to the war in Iraq.
- At approximately 2:20 p.m., in anticipation of President Bush's motorcade procession along Route 340, Plaintiffs stripped down to their underwear and formed a human pyramid, carefully recreating the same humiliating act depicted in a now-famous photograph showing Iraqi prisoners at the Abu Ghraib prison.
- Plaintiffs' symbolic act of forming a human pyramid was a silent and peaceful protest reflecting their disapproval of the U.S military's actions in Iraq and of their disapproval of the President's policies and decisions
- While in the pyramid, the Plaintiffs remained silent and took no action whatsoever that was threatening to others, but simple created a symbolic statement.

- As soon as Plaintiffs formed the human pyramid, John Doe, an individual believed to be with the Secret Service or associated with President Bush's advance team, signaled to law enforcement officials to remove and arrest the Plaintiffs.
- Immediately thereafter, East Lampeter Police Officers and Pennsylvania State Police Troopers, including the individually named Defendants and other officers and troopers whose identities are presently unknown to Plaintiffs, began to forcefully pull the Plaintiffs from their human pyramid
- The officers and troopers pulled and twisted the Plaintiffs' arms behind their backs, forced them to the ground, dug their knees into Plaintiffs' backs and proceeded to handcuff them
- Ihe officers and troopers then forced Plaintiffs to walk to an area shielded from Route 340 so that President Bush's motorcade could not see them when his bus arrived approximately ten to fifteen minutes later
- After President Bush arrived at Lapp Electrical, the Plaintiffs were transported in handcuffs to the East Lampeter Township Police Station, where they were charged with disorderly conduct
- Plaintiffs were held at the police station for approximately two (2) hours, where their hands were bound behind them, some in a painful manner, before finally being released.
- 23. It is believed and therefore averred, Plaintiffs were intentionally detained by Defendants at the police station until after President Bush had completed his campaign stop and left East Lampeter Township
- The officers and troopers did not have probable cause to seize, forcibly remove and arrest the Plaintiffs

- 25. The criminal citations filed against the Plaintiffs stated that they were being charged with disorderly conduct because each Plaintiff "did strip down to his underwear and build a human pyramid in protest of President Bush" See copy of Citations attached hereto as Exhibit "A."
- A hearing on the criminal citations was then scheduled for Monday, October 18, 2004
- On Friday, October 15, 2004, the Lancaster County District Attorney's office withdrew all of the charges, stating in a press release that Plaintiffs had not committed any crimes, that it was not possible to prosecute the Plaintiffs for disorderly conduct and that it was clear the First Amendment protected Plaintiffs' symbolic protest against the President.
- It is believed and therefore averred that the Defendants, acting under color of state law or in their capacity as federal employees, decided or agreed upon a plan or policy to arrest and remove individuals who were demonstrating against President Bush's motorcade processional whenever individuals engaged in nontraditional forms of symbolic expression or protest that called particular attention to the President or the President's policies and decisions regardless of whether there was probable cause to arrest and charge such individuals or whether the demonstration was protected by the First Amendment
- The actions of the Defendants in forcibly removing and arresting Plaintiffs without probable cause while they were engaged in a peaceful, silent protest of the President—which arrests appear to have been done for the sole purpose of suppressing Plaintiffs' symbolic protest against the President—constitutes a violation of Plaintiffs' clearly established First Amendment rights and represents willful, wanton, malicious, intentional, outrageous, deliberate and / or egregious conduct

V. Causes of Action

COUNT I

Plaintiffs v East Lampeter Police Officers,
Pennsylvania State Police Troopers and John / Jane Doe 1 to 5
(42 U S.C § 1983 for violating the First and Fourteenth Amendments)

- Plaintiffs incorporate by reference paragraphs 1 through 29 as if fully set forth herein
- Defendants East Lampeter Police Officers, Pennsylvania State Police Troopers and Defendants John / Jane Doe 1 to 5 are state actors who acted under color of state law in a manner that deprived Plaintiffs of their Constitutional rights to free speech as guaranteed by the First and Fourteenth Amendment
- The actions of the Defendants violated clearly established federal constitutional rights of the Plaintiffs
- As a proximate result of the Defendants' Constitutional violations, Plaintiffs have suffered the following injuries and damages:
 - a. Violation of their constitutional rights under the First and Fourteenth Amendments to the United States Constitution;
 - b. Emotional distress and physical pain as a result of the aforesaid actions of the Defendants
 - c Costs and expenses arising out of Defendants' actions
- Plaintiffs respectfully request your Honorable Court to grant the relief requested below

COUNT II

Plaintiffs v. East Lampeter Police Officers,
Pennsylvania State Police Troopers and John / Jane Doe 1 to 5
(42 U S C. § 1983 for violating the Fourth and Fourteenth Amendments)

- Plaintiffs incorporate by reference paragraphs 1 through 29 as if fully set forth
- Defendants East Lampeter Police Officers, Pennsylvania State Police Troopers and Defendants John / Jane Doe 1 to 5 are state actors who acted under color of state law in a manner that deprived Plaintiffs of their Constitutional rights to be free from improper seizures, arrests, detentions and malicious prosecutions as guaranteed by the Fourth and Fourteenth Amendment
- 37 The actions of the Defendants violated clearly established federal constitutional rights of the Plaintiffs.
- As a proximate result of the Defendants' Constitutional violations, Plaintiffs have suffered the following injuries and damages:
 - a. Violation of their constitutional rights under the Fourth and Fourteenth Amendments to the United States Constitution;
 - b. Emotional distress and physical pain as a result of the aforesaid actions of the Defendants.
 - c Costs and expenses arising out of Defendants' actions
- 39. Plaintiffs respectfully request your Honorable Court to grant the relief requested below

COUNT III

Plaintiffs v. John / Jane Doe 6 to 10 (*Bivens* action for violating the First Amendment)

Plaintiffs incorporate by reference paragraphs 1 through 29 as if fully set forth herein

- Defendants John / Jane Doe 6 to 10 are federal employees, agents or actors who deprived Plaintiffs of their Constitutional rights to free speech as guaranteed by the First Amendment.
- The actions of the Defendants violated clearly established federal constitutional rights of the Plaintiffs
- As a proximate result of the Defendants' Constitutional violations, Plaintiffs have suffered the following injuries and damages:
 - a Violation of their constitutional rights under the First Amendment to the United States Constitution;
 - b. Emotional distress and physical pain as a result of the aforesaid actions of the Defendants.
 - c Costs and expenses arising out of Defendants' actions.
- Plaintiffs respectfully request your Honorable Court to grant the relief requested below

COUNT IV

Plaintiffs v. All Defendants

(42 U.S C § 1985 action for a conspiracy to violate Plaintiffs' Constitutional rights)

- Plaintiffs incorporate by reference paragraphs 1 through 29 as if fully set forth herein.
- 46 It is believed based on similar instances around the Country that federal employees, agents or directors and / or other individuals involved in the President's reelection campaign, may have coordinated and implemented a plan to utilize law enforcement officials to arrest and remove protestors in order to suppress certain types of demonstrations and messages from being communicated in violation of the protestors' Constitutional rights.

- It is believed and therefore averred that Defendants entered into an agreement or understanding among themselves with possible direction from others that individuals who engaged in certain types of expression against the President or his policies would be arrested and forcibly removed in order to suppress that viewpoint or message from being communicated at a time and in a forum that may detract from the President
- As a proximate result of the Defendants' conspiracy to deprive Plaintiffs of their Constitutional rights, Plaintiffs have suffered the following injuries and damages:
 - a Violation of their constitutional rights under the First, Fourth and Fourteenth Amendments to the United States Constitution;
 - b Emotional distress and physical pain as a result of the aforesaid actions of the Defendants
 - c Costs and expenses arising out of Defendants' actions
- Plaintiffs respectfully request your Honorable Court to grant the relief requested below.

VI. Relief Requested

WHEREFORE, Plaintiffs request the following relief:

- a Declare that Defendants' actions and conduct that led to the physical removal, arrest and filing of criminal charges against Plaintiffs were in violation of the First and Fourteenth Amendments of the United States Constitution;
- b Grant Plaintiffs damages for violation of their Constitutional rights and for the emotional and physical harm they suffered as a result of this incident;

- c Award Plaintiffs punitive damages as against the individual Defendants to the extent that their liability is based upon reprehensible actions and / or inaction undertaken in their individual capacities, in such amounts as the jury determines;
- d Award the Plaintiffs prejudgment interest, reasonable attorneys' fees and costs as permitted by law; and
 - e. Award such other and further relief, as this Court may deem appropriate

Respectfully submitted,

GIBBEL, KRAYBILL & HESS

By:

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J. Dwight Yoden

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Sup Ct Atty ID #23225

Sup Ct Atty ID #81985

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Paula Knudsen

PA ID. No. 87607

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Harrisburg, PA 17101

(717) 236-6827

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DISTRICT JURTICE

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		MONWEALT				
	NC)N-TRAF	FIC CITA	TION F	447	1632 4
Magisterial District Number	- 5	2. Docket Number	مار مار المار	3 Scolal Se		
•		NT-OCK	209/9-	04		l6. State
102-3-02 4. Address of Magisterial District Office				5. Driver's Number	125	 ₹ PA
15 Geist Road, Li	ancaster, P	4 17601 (717) 656-2191 Last	X3//5	الماليدة	
RENT	AMIN	<i>\bullet</i>	/ K	EECY.		
R naturalization 'tress (Street-City-State	Zip Code)			3		
		10, Sex	11. Date o (MM/DD/YY)	resident Statu	s 13 sident	. Case Instituted by (O) -On-View Arrest
1 1 7 4 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	☐ Asian ☐ Hispanic	(M) ⊠⊾Male	(MINITOBYTT)	(N) 🗷 No.	n-Resident	(C) Citation/Summons
(I) Native American (U)	☐ Unknown	(F) Female		′_(U) □_ Uni	KNOWN 17. Date No	· <u>·</u>
14. JUVENILE 15. Parents Notified	16. Parent's Name		<u></u>	,		
to Cham	<u> </u>	-I Terapasa	☐ Theft of Sen	dces []	Criminal Mi	schief
Disorderly Conduct Harassment		al Trespass Drunkenness	Castarina D	ubbich		
Retail Theft	☐ Purcha	se Consumption I	Possession or Tran	rsportation of Lic	mor or Mait of	r Brewed Beverages
Other			21. Pa	Code	22. SL CRIMES	CODE TITLE 18
20. Nature of Offense APACSON IS GOILE	SINE DIC	MARKET CO	SUCT CH	limeS _	<u> </u>	
1				a	20.000	24. SUB SEC.
IF WITH THEIR	5TAST TO	CAUSE P	UBLIC_IN	CONCENTAL	25, FINE	حد, ح
1 111111 01 100	tar cock 1 /s	NEATING A	DICK THE	1500		
OR ALTON OR REL	26347C	RUNJINGH			26. COSTS	
HE CREATES A HA	2400259	e AHYSZALY	MENOU!	L=	27. J.C.P./A.T.J.	
		•		LATIC		10,.00
CONDITION BY ANY	ACT WHIC	H SPRUES	29.	-0 V C-	^{28.} TOTAL	\$
APPREE OF THE AC	700 TO V	OIT?	Lab Services R	equested	DUE 1	35. Zone _
30, Date 31. Time	32. Day 33	. City-live-Boro	SETTER Th	ار⁄وں	715	12
7404 1421	MI C	<u> </u>	HEJER 19	37. County		38. County Code
ONG BIN DHITAL	DECAHEA F	76. (YOUG	4S)	Lancas		35
39. Defendant's Signature - Acknowledges	Receipt of Citation	K		40. Date	Z Is sued ✓ □ Filed	Filed on Infa. received
42. [verify that the facts set forth in this cit	<u>سلام ري</u>	and other knowledge, info	mation and belief. This			ities of Section 4904
	904) relating to unsw	orn faisification to authorit	ies. BAD	GE NUMBER	1	ORI NUMBER
OFFICER'S SIGNATURE	#711 S			20	D.	0264000
43. Station Address	2000					0364000
43. Station Address East Lampeter TWI 44. Offense Code 45. Property). Police,	2205 Old F	hiladelphia	Pike, La	ncaster.	PA 17602
44. Offense Code 45. Property F	lecord No.	46. Systems Code		al Report }	ntion LCE	401-814329
50. Victim's Name		_ 	51. Date of Birth (MM/0		53. Race/Ethni	
20. Atcline Marine						
54. Victim's Address (Street-City-State-Zip G	Code)	· · · · · · · · · · · · · · · · · · ·			55. Phone 1	Teornuy
					L	
56. Remarks / Subpoena List	178) MAR 1	NE W	EC CINNE	DWEAR	AND 1	SUPLED A
HUMAN PIRAMI	D. IN	MOTESTO	F PRES	MERLY -	150517	*
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275 NA				р	447	1632-4

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