

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION**

CATHERINE CORKREN)	
)	
Plaintiff,)	Civil Action File No.
)	
v.)	_____
)	
THE CITY OF STATHAM,)	
)	JURY TRIAL DEMANDED
Defendant.)	

VERIFIED COMPLAINT

COMES NOW Catherine Corkren and brings this verified complaint for damages and injunctive relief, showing this Court as follows:

INTRODUCTION

1. Plaintiff is an active participant in the government of the City of Statham. She consistently attended meetings of the City Council and she has paid significant sums of money to obtain various records and recordings from the government of the City of Statham via Georgia’s Open Records Act. She has also criticized the City of Statham and its officials frequently, primarily but not exclusively through social media. She is currently engaged in litigation with the City of Statham for its responses to some of her records requests.

2. In response to this conduct, the City of Statham has banished Plaintiff – for life – from all City of Statham property. This drastic action was

taken in direct response to Plaintiff's constitutionally protected speech activity and for the purpose of silencing such speech activity. The City of Statham banned Plaintiff despite the fact that she has not been charged or accused of committing any crime.

3. This civil action aims to allow Plaintiff to resume her constitutionally protected speech activity, to compensate her for the unlawful prior restraint of her speech, and to deter similar governmental misconduct in the City of Statham and beyond.

JURISDICTION AND VENUE

4. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, as well as the First and Fourteenth Amendments of the United States Constitution. Jurisdiction is founded upon 28 U.S.C. §§ 1331 and 1343, and the aforementioned constitutional and statutory provisions. Plaintiffs further invoke the supplemental jurisdiction of this Court to hear claims arising under state law pursuant to 28 U.S.C. § 1367.

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because the claims arose in Statham, Georgia, which is situated within the district and divisional boundaries of the Gainesville Division of the Northern District of Georgia. Further, Defendant City of Statham is located in this district and division.

6. Plaintiff Catherine Corkren is a resident of the State of Georgia.

7. Defendant City of Statham (“Statham” or “City”) is a body corporate and politic and a political subdivision of the State of Georgia, duly established under its laws and Constitution. At all relevant times, Statham acted under color of state law.

FACTUAL ALLEGATIONS

8. Prior to September 13, 2018, Plaintiff often attended government meetings in Statham.

9. When Plaintiff attended Statham meetings, she would formally participate, informally participate, or participate only through her attendance.

10. Outside of such meetings, Plaintiff would discuss the operations of the Statham government with others – in person, on social media, and otherwise.

11. Plaintiff frequently made requests for Statham’s records, pursuant to Georgia’s Open Records Act.

12. As of the filing of this action, Plaintiff is engaged in litigation adverse to Statham pursuant to alleged violations of the Georgia Open Records Act. Discovery in that matter has concluded, no summary judgment motions were filed, and the parties await a trial on the merits.

13. Plaintiff has previously been critical of Statham and its officials.

14. Plaintiff has complained about the Statham Police Department for a perceived pattern of making improper arrests of certain drivers for driving under the influence of prescription medications.

15. One of the persons alleged to have been unlawfully arrested by the City of Statham was Kelly Pickens, *see generally Garrett v. Lofton, et al.*, 2:17-cv-156-RWS (N.D. Ga.), who was Plaintiff's longtime partner. Ms. Pickens has since passed away.

16. Plaintiff has also been critical of Statham and its officials for a perceived lack of transparency and accountability in responding to allegations of wrongdoing.

17. In response to some of her complaints, members of the City Council of Statham have publicly criticized Plaintiff.

18. In January 2018, councilmember Betty Lyle criticized Plaintiff at a City Council work session for comments Plaintiff purportedly made about her on Facebook.

19. In August 2018, councilmember Dwight McCormick, at a meeting of the Statham government, criticized Plaintiff and claimed that she was mentally ill because she initiated open records litigation involving Statham.

20. Statham has previously issued trespass warnings of indefinite duration, barring persons from attending Statham government meetings, to persons who have criticized Statham.

21. In May 2018, Statham barred Sondra Moore and Tony McDaniel, who had previously criticized the City, from attending any government meeting for an indefinite period.

22. On September 13, 2018, the City Council of Statham voted to ban Plaintiff from all city property for life.

23. A copy of Statham's "Notice of Prohibited Entry" barring Plaintiff from all City of Statham property "indefinitely" is attached hereto as Exhibit A.

24. A copy of Barrow County's "Notice of Prohibited Entry" barring Plaintiff from all City of Statham property for "life" is attached hereto as Exhibit B.

25. At the September 13, 2018 City Council meeting, city officials acknowledged that Plaintiff's conduct had not "risen to the level of criminal activity."

26. At the September 13, 2018 meeting, city officials heard allegations that Plaintiff made a City of Statham clerk feel that she worked in a "hostile environment" when Plaintiff threatened legal action, via email, in response to perceived violations of the Georgia Open Records Act.

27. At the September 13, 2018 meeting, city officials also heard allegations that Plaintiff was unsatisfied with being denied a police report at the Barrow County Sheriff's Office, and that she sent rude emails to the court staff of the judge then-assigned to hear her Open Records Act lawsuit.

28. Taking all of the allegations made against Plaintiff at the September 13, 2018 meeting as true, there was no cause to ban Plaintiff from the City of Statham for life.

29. Plaintiff disputes many of the allegations lodged against her in the September 13, 2018 meeting and in the documents authored by Thomas Mitchell.

30. A copy of the memorandum to Statham City Council authored by Thomas Mitchell is attached hereto as Exhibit C.

31. A copy of the correspondence to Plaintiff advising her of the meeting to discuss her banishment authored by Thomas Mitchell is attached hereto as Exhibit D.

32. No allegation of violence, attempted violence, or threatened violence has been lodged against Plaintiff.

33. Plaintiff has no criminal history of violence.

34. Plaintiff has never prevented any meeting of the City of Statham from moving forward as planned.

35. Plaintiff was banned from Statham as a result of a vote taken by the City Council.

36. The vote to ban Plaintiff from Statham is the official policy of the City of Statham.

37. Plaintiff was banned from Statham because of her prior criticism of the City of Statham and some of its officials.

38. There is no exception in the order banning Plaintiff from Statham that would allow Plaintiff to attend Statham government meetings.

39. Plaintiff wishes to attend and participate in Statham government meetings.

40. Plaintiff has not attended or participated in any Statham government meetings since September 13, 2018 because she reasonably believes and fears she will be arrested and prosecuted should she do so.

41. As soon as any prohibition is lifted, Plaintiff intends to immediately resume attending and participating in Statham government meetings.

CLAIMS FOR RELIEF

Count One: Free Speech

42. By not allowing Plaintiff to engage in legal and constitutionally protected expression under penalty of arrest and criminal prosecution,

Defendants have deprived Plaintiff of her right to free speech as protected by the First and Fourteenth Amendments, as well as the Georgia Constitution's Article I, Section I, Paragraphs V and IX.

43. Plaintiff has been subjected to the prior restraint of her speech and has been denied entirely her right to speak at Statham government meetings, or to attend and speak to any public official on public property, or to attend any public meetings on public property.

44. The documents barring Plaintiff from Statham property were issued with the purpose of preventing Plaintiff from participating in the affairs of the government of Statham because Plaintiff was often critical of Statham officials.

45. Statham officials sought to silence Plaintiff because of the content and viewpoint of her speech.

46. Plaintiff would not have been barred from the City of Statham but for her prior protected speech that was critical of certain Statham officials.

47. Plaintiff has been denied her right to petition government, as guaranteed by the Petition Clause of the First Amendment, as a result of the orders barring her from all City of Statham property.

48. The orders barring Plaintiff from Statham property violate due process because they were issued without any finding of criminality, and because her actions in complaining about local government do not share a

meaningful nexus with her ability to attend and participate in meetings of city government, or to attend and speak to any public official on public property, or to attend any public meetings on public property.

49. Plaintiff, as a person who has been subject to an unconstitutional order barring her from participating in Statham government meetings, attending and speaking to any public official on public property, and attending any public meetings on public property, seeks declaratory and injunctive relief barring enforcement of the orders barring Plaintiff from the City of Statham as unconstitutional under the First and Fourteenth Amendments and Georgia Constitution Article I, Section I, Paragraphs I, II, V, VII, IX, and XIII.

50. Plaintiff also seeks monetary damages for the infringement upon her protected speech and the resulting chilling of her expression.

Count Two: Open Meetings Act

51. The meetings of the Statham City Council and various subcommittees of the City of Statham are meetings under the Georgia Open Meetings Act.

52. Plaintiff was, and on a recurring basis is, denied her statutory right of access to the public meetings of the City of Statham by virtue of having been barred from all Statham property.

PRAYER FOR RELIEF

WHEREFORE, on the basis of the foregoing, Plaintiff respectfully prays that this Court:

(A) Assume jurisdiction over this action;

(B) Award nominal, compensatory, and other damages against Defendants in an amount determined by a jury;

(C) Award declaratory and injunctive relief as set out herein;

(D) Award civil penalties under the Georgia Open Meetings Act, *see* O.C.G.A. § 50-14-6;

(E) Award reasonable attorneys' fees, expenses, and costs of litigation pursuant to 42 U.S.C. § 1988 and other applicable state and federal laws; and

(F) Award other and further relief as this Court deems just and proper.

A JURY TRIAL IS REQUESTED.

Respectfully submitted, this 15th day of October, 2018.

/s/ Gerald Weber

Gerald Weber
Georgia Bar No. 744878
LAW OFFICES OF GERRY WEBER, LLC
Post Office Box 5391
Atlanta, GA 31107
404-522-0507
wgerryweber@gmail.com

/s/ Zack Greenamyre

Zack Greenamyre
Georgia Bar No. 293002
MITCHELL & SHAPIRO LLP
3490 Piedmont Road, Suite 650
Atlanta, GA 30305
404-812-4751
zack@mitchellshapiro.com