

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF LA

2009 APR 30 AM 11:08

IN THE UNITED STATES DISTRICT COURT OF THE EASTERN DISTRICT OF LOUISIANA
L. G. WHITE
CLERK

Jeremy Don Kerr, Ph.D.
1714 N. Broad Ave
New Orleans, LA 70119
Plaintiff

09-3411
SECT. C MAG 5

v.

New Orleans Police Department
and
Officer Glen Tate (Badge # 573)
Defendants

COMPLAINT

(For Compensatory, Declaratory, and Injunctive Relief)

1. This is an action to vindicate the constitutional rights of the law-abiding citizens of New Orleans to be free of sex discrimination in public facilities where such discrimination is based on gender stereotyping.

Parties

2. Plaintiff: Jeremy Don Kerr, Ph.D.

Defendants: New Orleans Police Department and Officer Glen Tate (Badge # 573).

Jurisdiction

3. Jurisdiction is founded on 28 U.S.C. § 1331 in that this action arises under the constitution and laws of the United States, and under 28 U.S.C. §1343(3) in that this action seeks to redress the deprivation, under color of the laws, statutes, ordinances, regulations, customs and usages of Louisiana and political subdivisions thereof, of

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rights, privileges or immunities secured by the United States Constitution.

Supplemental jurisdiction is founded upon the laws of the State of Louisiana. This action seeks relief pursuant to 28 U.S.C. §§ 2201, 2202, and 42 U.S.C. § 1983.

Venue lies in this district pursuant to 28 U.S.C. §1391.

Facts

On May 5, 2008 the Plaintiff, a heterosexual male of Scottish ancestry, entered the New Orleans Parish courthouse for arraignment. After entering his plea and as he was exiting the courtroom, the Plaintiff was approached by Officer Glen Tate, a representative of the New Orleans Police Department. Officer Tate queried the Plaintiff about why he was "wearing a skirt." The Plaintiff did not answer and proceeded to leave the courtroom. Officer Tate subsequently pursued the Plaintiff and stopped the Plaintiff by force. Officer Tate then told the Plaintiff that, unless he is a woman, wearing a skirt is a violation of the court's dress code. Officer Tate then threatened to arrest the Plaintiff if the Plaintiff did not leave the courthouse immediately. The Plaintiff complied under protest.

COUNT ONE

(Right to be free of prohibition of access to public facilities on the grounds of racial, ethnic, religious, or sex discrimination)

Paragraphs 1 through 4 are realleged and incorporated herein by reference.

Title III of the 1964 Civil Rights Act ensures the right of individuals to be free of prohibition of access to public facilities on the grounds of racial, ethnic, religious, or sex discrimination. The above-described acts abridged and infringed on the right of the Plaintiff, and potentially on the right of countless other citizens, to be free of

prohibition of access to public facilities on the grounds of sex discrimination that is based on gender stereotypes. In *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989) the U.S. Supreme Court ruled that penalizing an individual for failing to conform to gendered norms of behavior constitutes a form of sex-based discrimination. This Supreme Court ruling is particularly relevant in this case because the Plaintiff's choice of attire is totally unrelated to the Plaintiff's sexual orientation. Rather, the Plaintiff's choice of attire is reflective of his ethnic and religious heritage and is an expression of that heritage.

**COUNT TWO
(Due Process)**

Paragraphs 1 through 4 are realleged and incorporated herein by reference.

The Fourteenth Amendment to the United States Constitution provides that no State shall deprive any person of life, liberty, or property without due process of law. The Defendants' action of threatening the Plaintiff with arrest and ultimately denying Plaintiff unfettered access to the courthouse constitutes a serious violation of the Plaintiff's right to due process under State and Federal Law.

**COUNT THREE
(Equal Protection of the Laws)**

Paragraphs 1 through 4 are realleged and incorporated herein by reference.

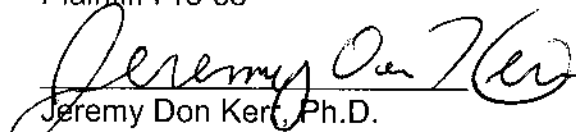
Article I, § 3, of the Louisiana Constitution provides: "No person shall be denied the equal protection of the laws. No law shall discriminate against a person because of race or religious ideas, beliefs, or affiliations. No law shall arbitrarily, capriciously, or

unreasonably discriminate against a person because of birth, age, sex, culture, physical condition, or political ideas or affiliations.”

WHEREFORE, Plaintiff prays that the Court:

1. Enter a declaratory judgment that the aforesaid actions by the Defendants violated the Plaintiffs' right to be free of sex discrimination based on gender stereotypes and also violated the Plaintiff's rights to due process and equal protection of the laws under the Civil Rights Act of 1964 and the Constitution of the State of Louisiana.
2. Issue a permanent injunction barring the New Orleans Police Department, or any other governmental agency or representative, from prohibiting the Plaintiff, or any other resident of New Orleans, unfettered access to public facilities because of sex discrimination that is based on gender stereotyping.
3. Award the Plaintiff with compensatory damages in the amount of one dollar (\$1).
4. Award the Plaintiff with court costs and related legal fees.

Respectfully Submitted,
Jeremy Don Kerr, Ph.D.
Plaintiff Pro-se


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