

UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF MISSISSIPPI



CARLOS E. MOORE

PLAINTIFF,

V.

REPRESENTATIVE KARL OLIVER,

In his personal and official capacities

AND

REPRESENTATIVE JOHN READ

In his personal and official capacities

AND

REPRESENTATIVE DOUG MCLEOD

In his personal and official capacities

AND

TONY DUNN, MISS. HIGHWAY PATROL

In his personal and official capacities

DEFENDANTS.

No.

3:17cv408DPJ-FKB

**COMPLAINT**

1. This action is brought to remedy defendants' violations of 42 U.S.C. § 1985 (2) which makes it unlawful, inter alia, for "two or more persons" to "conspire to deter, by force, intimidation, or threat any party or witness in any court of the United States from attending such court or from testifying to any matter pending, therein freely, fully, and truthfully" and pursuant to Mississippi common law. It is also brought to remedy defendants' violations, in their official capacities as officers of the state of Mississippi, of plaintiff's right of free speech and his right "to petition the Government for a redress of grievances" under the First Amendment to the United States Constitution. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1343.

2. Plaintiff Carlos E. Moore is a resident of Grenada, Mississippi and is a licensed attorney in the state of Mississippi. He is the plaintiff in Moore v. Bryant, No. 3:16-cv-00151

(S.D. Miss.) and the appellant in No. 16-60616 (5<sup>th</sup> Cir.). The district court dismissed his case for lack of standing and the Fifth Circuit affirmed. Mr. Moore intends to file a petition for a writ of certiorari from the 5<sup>th</sup> Circuit's opinion on or before June 29, 2017. In Moore v. Bryant, Mr. Moore is seeking a declaration that the Mississippi state flag, which pays homage to the Confederate battle flag, is an unconstitutional endorsement of white supremacy and glorification of slavery and the subrogation of African-Americans in violation of the Equal Protection Clause of the Fourteenth Amendment. He also seeks an injunction barring the Governor and the state Superintendent of Education from continuing to fly such flag throughout Mississippi in and near state offices, state courtrooms, and all public schools.

3. Defendant Karl Oliver, a resident of Winona, Mississippi, is an elected member of the Mississippi House of Representatives.

4. Defendant John Reed, a resident of Gautier, Mississippi, is an elected member of the Mississippi House of Representatives.

5. Defendant Doug McLeod, a resident of Lucedale, Mississippi, is an elected member of the Mississippi House of Representatives.

6. Defendant Tony Dunn is the Public Affairs Officer for the Mississippi Highway Patrol.

7. On March 31, 2017 Defendant Oliver celebrated the 5<sup>th</sup> Circuit's decision affirming the dismissal of Mr. Moore's lawsuit by stating on his Facebook page:

FLAG DECLARED WINNER

A federal appeals court has blocked a Mississippi man's [i.e. Mr. Moore's] effort to remove the Confederate battle emblem from the state flag.

8. Beginning in March, 2017 and continuing into May, 2017 the city of New Orleans, acting pursuant to a city ordinance, removed four large monuments from city property. These included statues of Confederate General Robert E. Lee, General P. Beauregard, and Confederate President Jefferson Davis and an obelisk erected in 1891 to honor the "Crescent City White League" and honor its racially motivated revolt against the biracial post-Civil War government of New Orleans.

9. On or about May 20, 2017, Defendant Oliver posted the following on his Facebook page:

The destruction of these monuments, erected in the loving memory of our family and fellow Southern Americans is both heinous and horrific. If the, and I use this term extremely loosely, "leadership" of Louisiana wishes to , in a Nazi-ish fashion, burn books or destroy historical monuments of OUR HISTORY, they should be LYNCHED! Let it be known, I will do all in my power to prevent this from happening in our State [i.e., Mississippi]

A copy of Mr. Oliver's Facebook posting is attached as Exhibit A.

10. Defendants Read, McLeod and Dunn conspired with Defendant Oliver on or about May 21, 2017 by electronically and explicitly expressing their support for the above-quoted threat through Facebook and other means.

11. The Defendants intended that their postings would be widely disseminated through social media and the press and would be received by Mr. Moore and others.

12. The postings were intended to communicate a death threat to anyone in Mississippi who might take action to lawfully secure the removal of Confederate monuments, imagery or insignia in Mississippi. More specifically, it was intended as a threat to have Mr. Moore LYNCHED for his diligent and persistent efforts, through the United States courts since early 2016, to remove Mississippi's prominent and flagrant glorification of the goals of the Confederacy, including slavery and white supremacy, in its state flag.

13. Defendants have been keenly aware of Mr. Moore's lawsuit and have celebrated its lack of success thus far. They are, on information and belief, aware that he will be asking the Supreme Court to hear his case. There is no other prominent and active effort to remove Confederate imagery or monuments in Mississippi and Defendants' reference to LYNCHING and preventing "this from happening in our State" was an intentional and specific death threat directed at Mr. Moore, intended to intimidate him from seeking Supreme Court review, or take any other legal steps to challenge the flying of the Mississippi state flag.. It was further intended to chill and deter Mr. Moore and others from exercising their free speech rights and their right to petition the government for a redress of grievances, specifically to seek redress for the state of Mississippi's continued labelling of African Americans as second class citizens. In addition to being a clear violation of 42 U.S.C. § 1985, and the First Amendment, and Mississippi common law, all of which provide for civil remedies, including injunctive relief, defendants' conduct violates 18 U.S.C. §§ 1512 and 1513 which make it a crime to use a "threat of physical force ... with intent to "influence, delay, or prevent the testimony of any person in an official proceeding" or "cause or induce any person to "withhold a record, document, or other object from an official proceeding" or to "retaliate" against any person for having brought or testified in any official

proceeding”. It also violates Mississippi criminal law prohibiting witness intimidation, as specified at Mississippi Code, section 97-9-13.

14. Mr. Moore therefore asks this Court for the following relief:

(i) An injunction against defendants prohibiting them from conveying, directly or indirectly, further threats against Mr. Moore or any other person who may seek by lawful means to have state sponsored Confederate monuments, symbols, or imagery removed, in whole or in part, from Mississippi;

(ii) An injunction against defendants prohibiting them from taking, or in any way encouraging others to take, any action against Mr. Moore or any other person on account of their efforts in seeking, by lawful means, to have state sponsored Confederate monuments, symbols, or imagery removed, in whole or in part, from Mississippi;

(iii) An order requesting that the United States Attorney for the Southern District of Mississippi fully investigate whether defendants have committed the crimes prohibited by 18 U.S.C. §§ 1512 and 1513, or in other federal criminal laws, and to take appropriate action;

(iv) An order requesting the Attorney General of the State of Mississippi to investigate whether defendants have committed the crimes prohibited by Miss. Code section 97-9-13, or in other Mississippi criminal laws, and to take appropriate action;

(v) An order, intended to diminish the likelihood of future similar violations, requiring defendants to read (a) *The Blood of Emmett Till* by Timothy Tyson and (b) *At The*

*Hands of Persons Unknown: The Lynching of Black America* by Phillip Dray and to submit within 30 days, written summaries of each book, of not less than 3,000 words, to the Court, and

(vi) An order awarding Plaintiff all attorneys' fees and costs incurred in this action and such actual damages as may be proven at trial and punitive damages in an amount sufficient to deter future wrongful conduct by defendants and others.



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