

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION

CHELLINE CARTER

Plaintiff,

– Versus –

SHANNON BRASSEAU, Individually  
and in his Official Capacity as an Officer of  
the Lafayette Police Department; JOEL  
ROBIDEAU, Individually and in his  
Official Capacity as Mayor-President of  
THE LAFAYETTE CITY-PARISH  
CONSOLIDATED GOVERNMENT; and  
THE LAFAYETTE CITY-PARISH  
CONSOLIDATED GOVERNMENT,

Defendants.

CASE NO.:

JUDGE:

MAG. JUDGE:

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**COMPLAINT**

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**INTRODUCTION**

1.

This action is brought pursuant to 42 U.S.C. § 1983 for actions arising under the First and Fourth Amendments to the Constitution of the United States, and Article I, Sections 5 and 7 of the Louisiana Constitution of 1974. Plaintiff seeks a preliminary and permanent injunction barring the Defendants from interfering with the rights of individuals to photograph police activities in public. Plaintiff also seeks a declaratory judgment, nominal damages, and attorneys' fees.

**JURISDICTION AND VENUE**

2.

This Court has original jurisdiction in this matter under 28 U.S.C. §§ 1331, 1343, 2201, and 2202. Supplemental jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1367 over claims arising under the Louisiana Constitution of 1974, as they arise out of the same case or controversy as the federal claims.

3.

Venue is proper in this Court under 28 U.S.C. § 1391(b)(1) and (2) because the Defendants reside in this district and a substantial part of the events or omissions giving rise to these claims occurred within the Western District of Louisiana.

4.

Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202. A declaration of law is necessary to determine the respective rights and duties of the parties.

**THE PARTIES**

5.

Plaintiff Chelline Carter is an adult citizen of the United States and resided in Lafayette, Louisiana, at all times relevant to this Complaint.

6.

Defendant Shannon Brasseaux is a police officer with the Lafayette Police Department (“LPD”). Officer Brasseaux unlawfully engaged in the seizure and search of Carter’s telephone. He is sued in his individual and official capacities.

7.

Joel Robideaux is the mayor-president of The Lafayette City-Parish Consolidated Government (“the City”). As a final policymaker, he is responsible for the supervision, administration, policies, practices, procedures and customs for the City and its police department (the “LPD”). He is responsible for the training, discipline, supervision and control of LPD officers, including the officer named as Defendant herein. Mayor-President Robideaux is sued in his individual and official capacities.

8.

The City is a body corporate and political subdivision of the State of Louisiana; it is able to sue and be sued in its own name. The City is the governing authority of the LPD.

### **FACTUAL ALLEGATIONS**

9.

Defendant Shannon Basseaux is a police officer of the LPD, and at all times relevant to this Complaint acted under color of state law and within the course and scope of his employment.

10.

On January 24, 2017, at about 12:30 p.m., Chelline Carter drove to the parking lot of a CVS store at 1920 Kaliste Saloom Road in Lafayette, Louisiana, where her minor son, Christopher Carter, had just been placed under arrest by Officer Basseaux.

11.

Mrs. Carter introduced herself to Officer Basseaux and informed him that she is the mother of Christopher Carter. She politely asked Officer Basseaux the reason for her son’s

arrest. Officer Brasseaux responded that Christopher Carter was arrested on a charge of possession of marijuana with intent to distribute.

12.

Mrs. Carter asked Officer Brasseaux what quantity of marijuana was allegedly in her son's possession, and Officer Brasseaux gestured toward a bag on the dashboard of his police vehicle. He invited her to see for herself.

13.

Officer Brasseaux asked Mrs. Carter to assist him by retrieving her son's driver's license. As requested, Mrs. Carter walked to her son's vehicle, retrieved the license from inside, and delivered it to Officer Brasseaux.

14.

Seeing her son restrained in the back of a police vehicle, Mrs. Carter pulled out her telephone, a Samsung Galaxy S7, and took a photograph of Officer Brasseaux's police vehicle with her son inside.

15.

At no time did Mrs. Carter interfere with Officer Brasseaux's arrest of her son or any of his actions following the arrest.

16.

Officer Brasseaux took the telephone out of Mrs. Carter's hand and told her that she was breaking the law by taking photographs and could be arrested for taking pictures of "evidence."

17.

Officer Brasseaux gained access to the contents of Plaintiff Carter's phone by

“swiping” its touchscreen without a warrant and without her consent.

18.

Officer Brasseaux searched and inspected the contents of Mrs. Carter’s phone without a warrant and without her consent.

19.

Officer Brasseaux deleted one or more photographs from the telephone, then returned the phone to Mrs. Carter. Specifically, Officer Brasseaux deleted the photograph or photographs that Mrs. Carter had taken of the police vehicle.

20.

At no time did Officer Brasseaux assert that Mrs. Carter was interfering with his investigation or arrest of Christopher Carter.

21.

After withdrawing and leaving the scene, Mrs. Carter lodged a complaint with the Internal Affairs Division of the LPD the next day (January 25, 2017).

22.

Before, during, and after Mrs. Carter’s observation of police activities, as described in Paragraphs 11-20 above, she behaved in a lawful and peaceful manner.

23.

As final policymaker for the LPD, Mayor-President Joel Robideaux is responsible for promulgating policies, practices or customs that are designed to prevent officers from (1) inhibiting the ability of members of the public to freely exercise their rights to speak and to engage in lawful and protected activities, such as photographing police officers in a public setting, (2) threatening members of the public with arrest for freely exercising their First

Amendment rights, including photographing police officers in a public setting, and (3) committing wrongful acts such as unlawful warrantless searches and seizures to discourage such activities.

24.

Upon information and belief, the LPD lacks training protocols to ensure that its officers will respect and not violate the First Amendment rights of the public. As final policymaker for the LPD, Mayor-President Robideaux has failed to adequately or reasonably train, supervise, discipline, and control LPD officers with respect to the rights of the public under the First and Fourth Amendments. Mayor-President Robideaux also has shown deliberate indifference by adopting or allowing policies, practices or customs that do not prevent officers from violating the First and Fourth Amendment rights of members of the public. These violations include, but are not limited to, threatening such persons with arrest and conducting warrantless and illegal searches and seizures in an effort to discourage the exercise of First Amendment rights. These actions of Mayor-President Robideaux were the direct cause of or moving force behind the violation of Mrs. Carter's First Amendment rights on January 24, 2017.

25.

At all times relevant to this Complaint, Officer Brasseaux acted pursuant to LPD custom or training, or lack thereof, which allowed and caused him to forcibly and unlawfully seize Plaintiff Carter's telephone, unlawfully search her telephone, and destroy Carter's property by deleting her photograph(s) on January 24, 2017.

26.

Defendant Brasseaux's wrongful seizure and search of Mrs. Carter's telephone,

wrongful destruction of the photograph(s) that constitute her property, and wrongful threat of the possibility of arrest were objectively unreasonable under the circumstances.

27.

At all times above, Officer Brasseaux acted knowingly, intentionally, or recklessly with regard to Mrs. Carter's rights.

### **CAUSES OF ACTION**

#### **FIRST CAUSE OF ACTION—FIRST AMENDMENT VIOLATION UNDER 42 U.S.C. § 1983 BY ALL DEFENDANTS**

28.

Officer Brasseaux's actions under color of state law in seizing Mrs. Carter's camera and deleting her photograph(s) constituted an unlawful prevention and inhibition of her free exercise of her right of speech—which includes recording police activity—in violation of her rights under the First Amendment to the Constitution of the United States.

29.

As final policymaker for the City and the LPD, Mayor-President Robideaux failed to exercise his authority to properly train, discipline, supervise and control LPD officers, including Officer Brasseaux, which caused or was the moving force behind the violation of Plaintiff's rights under the First Amendment.

30.

The City has developed and maintained policies, customs and/or practices exhibiting deliberate indifference to the constitutional rights of individuals such as Plaintiff Carter, which caused or was the moving force behind the violation of Plaintiff's rights under the First Amendment.

**SECOND CAUSE OF ACTION—FOURTH AMENDMENT VIOLATION  
UNDER 42 U.S.C. § 1983 BY ALL DEFENDANTS**

31.

Officer Brasseaux's actions under color of state law in seizing Mrs. Carter's phone and deleting her photograph(s) without a warrant or her consent constituted an unlawful search and seizure, in violation of Plaintiff's rights under the Fourth Amendment to the Constitution of the United States.

32.

As final policymaker for the City and the LPD, Mayor-President Robideaux has failed to exercise his authority to properly train, discipline, supervise and control LPD officers, including Officer Brasseaux, which caused or was the moving force behind the violation of Plaintiff's rights under the Fourth Amendment.

33.

The City has developed and maintained policies, customs and/or practices exhibiting deliberate indifference to the constitutional rights of individuals such as Plaintiff Carter, which caused or was the moving force behind the violation of Plaintiff's rights under the Fourth Amendment.

**THIRD CAUSE OF ACTION—LA. CONST. ART. I, § 7 VIOLATION  
BY ALL DEFENDANTS**

34.

Officer Brasseaux's actions constituted an unlawful prevention and inhibition of Plaintiff's free exercise of her right of speech, in violation of Plaintiff's rights under Article I, Section 7 of the Louisiana Constitution of 1974.

35.

As final policymaker for the City and the LPD, Mayor-President Robideaux failed to exercise his authority to properly train, discipline, supervise and control LPD officers, including Officer Brasseaux, which caused or was the moving force behind the violation of Plaintiff's rights under Art. I, § 7 of the Louisiana Constitution.

36.

The City has developed and maintained policies, customs and/or practices exhibiting deliberate indifference to the constitutional rights of individuals such as Plaintiff Carter, which caused or was the moving force behind the violation of Plaintiff's rights under Art. I, § 7 of the Louisiana Constitution.

**FOURTH CAUSE OF ACTION— LA. CONST. ART. I, § 5 VIOLATION  
BY ALL DEFENDANTS**

37.

Officer Brasseaux's actions constituted an unlawful search and seizure, in violation of Plaintiff's rights under Article I, Section 5 of the Louisiana Constitution of 1974.

38.

As final policymaker for the City and the LPD, Mayor-President Robideaux failed to exercise his authority to properly train, discipline, supervise and control LPD officers, including Officer Brasseaux, which caused or was the moving force behind the violation of Plaintiff's rights under Art. I, § 5 of the Louisiana Constitution.

39.

The City has developed and maintained policies, customs and/or practices exhibiting deliberate indifference to the constitutional rights of individuals such as Plaintiff Carter,

which caused or was the moving force behind the violation of Plaintiff's rights under Art. I, § 5 of the Louisiana Constitution.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests that this Honorable Court:

- A. declare Defendants' actions described above to be in violation of Plaintiff's rights under the First and Fourth Amendments to the United States Constitution, as secured by 42 U.S.C. § 1983;
- B. declare Defendants' actions described above to be in violation of Plaintiff's rights as secured by Article I, §§ 5 and 7 the Louisiana Constitution of 1974;
- C. enter a preliminary and, in due course, a permanent injunction restraining Defendants, their agents, and employees from:
  - (1) interfering in any manner with the free exercise of First Amendment rights, including the legal observation and photographing of police activity;
  - (2) subjecting persons who observe and photograph the police to illegal searches and seizures;
  - (3) subjecting persons who observe and photograph the police to threats and intimidation; and
  - (4) conducting warrantless nonconsensual searches of cellular telephones and related devices.
- D. order Defendants to undertake such affirmative steps to ensure the acts complained of do not recur;
- E. grant Plaintiff nominal damages for violation of her rights under the Constitutions of the United States and the Louisiana Constitution of 1974;

F. award Plaintiff costs on all of her claims, reasonable attorney's fees on her claims under 42 U.S.C. § 1983, and any and all such further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Bruce Hamilton  
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