

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

PATRICK HARDERS,

Plaintiff,

v.

PETER K. CANDLAND

Defendant.

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Case No. 1:22CV798

COMPLAINT

COMES NOW the Plaintiff, Patrick Harders (“Plaintiff” or “Harders”), by counsel, and moves this honorable Court for judgment against Peter K. Candland (“Defendant” or “Candland”). In support of his Complaint, Plaintiff states as follows:

INTRODUCTION

1. This Complaint asserts claims pursuant to 42 U.S.C. § 1983.
2. This Complaint details violations of the First Amendment of the Constitution of the United States of America by Defendant.
3. This Complaint details violations of the Fourteenth Amendment of the Constitution of the United States of America by Defendant.
4. Specifically, this Complaint outlines policies and acts by the Defendant, a state actor, tending toward, as well as identifiably, violating Mr. Harders’s Constitutional right to free speech.

5. Candland is an elected, paid supervisor for Prince William County, Virginia who has repeatedly censored dissenting views on his public Facebook page entitled “Supervisor Pete Candland”.

JURISDICTION

6. This Court has federal question jurisdiction, pursuant to 28 U.S.C. §§ 1331 and 1343, over Mr. Harders’s 42 U.S.C. § 1983 claims.
7. This Court has jurisdiction over these claims as they arise under the Constitution of the United States of America and have been brought before this Court pursuant to 42 U.S.C. § 1983.
8. This Court has supplemental jurisdiction over the related state law claims pursuant to 28 U.S.C. §1367(a) because the alleged claims arising under Virginia law are so related as to form part of the same case or controversy arising under Mr. Harders’s 42 U.S.C. § 1983 claims.

VENUE

9. Venue is proper pursuant to 28 U.S.C. §1391(b) because a substantial part of the acts and omissions giving rise to Mr. Harders’s claims occurred in this District.
10. Assignment to the Alexandria Division of the Eastern District of Virginia is property pursuant to Eastern District of Virginia Local Rules 3(B)(1) and 3(C), because a substantial part of the acts and omissions giving rise to Plaintiff’s claims occurred in this division.

PARTIES

11. The Plaintiff, Patrick Harders, is and at all relevant times has been a resident of the Commonwealth of Virginia, and more specifically of the Gainesville District of Prince William County.

12. Defendant Candland is, and has since 2012 been, an elected and paid Supervisor for the Gainesville District of Prince William County, Virginia, where he has at all relevant times been a resident. Candland is sued in his individual and/or official capacity as charged herein.

13. Candland is a person acting under color of state law pursuant to 42 U.S.C. § 1983.

FACTS

14. Mr. Harders lives in the Gainesville District of Prince William County, Virginia.

15. Candland is a County Supervisor who is elected by, to represent, the Gainesville District. Candland is currently under scrutiny for his actions related to Data Centers in and around his district, which he is alleged to be influencing to effect a windfall profit for himself.

16. Candland operates a Facebook page entitled “Supervisor Pete Candland”, which:

- a. Includes Candland’s title as the title of the page;
- b. Is categorized as that of a government official;
- c. Lists Candland’s official County email address, telephone number, and physical address as contact information for Candland
- d. Includes the County’s official County website web address;
- e. Addresses the vast majority of its posts to constituents;
- f. Contains posts submitted by Candland on behalf of the Prince William County Board of Supervisors as a whole;
- g. Is utilized by Candland as a channel for back and forth conversations; and
- h. Contains content tending strongly toward matters related to Candland’s office.

See Supervisor Pete Candland Facebook page, attached hereto as **Exhibit “A”**.

17. Candland has, on more than one occasion, blocked communication from his constituents, including Mr. Harders, in violation of their rights to freedom of speech guaranteed by the First Amendment. As a specific example, Candland blocked certain comments by both Mr. Harders and Josh Palmer, evinced by the contrasting screenshots attached hereto as **Exhibit “B”**.¹

COUNT I

First Amendment Violation of Plaintiff's Freedom of Speech

18. Plaintiff incorporates the foregoing paragraphs into this Count I.

19. Prince William County encouraged, solicited, and allowed public comments and discussions on its social media platforms within certain parameters. **See** “Prince William County Social Media Comments Policy”, attached hereto as **Exhibit “C”**.

20. Defendant’s official Facebook page is, and at all relevant times has been, a public forum subject to First Amendment protection.

21. Defendant manages his official Facebook page.

22. Defendant, at all relevant times, acted under color of state law in maintaining his official Facebook page.

23. Defendant, at all relevant times, acted under color of state law by undertaking state action in maintaining his official social media account.

¹ To clarify, the screenshots are of the same set of responses to Candland’s posts; however, Mr. Harders’s and Mr. Palmer’s posts are only shown to those who are Facebook “friends” of Mr. Harders and/or Mr. Palmer. Mr. Harders was blocked for approximately one week.

24. Candland's sole intention in blocking Harders and Mr. Palmer was "to suppress speech critical of his conduct of official duties or fitness for public office." See Rossignol, 316 F. 3d at 524.²
25. Deleting Plaintiff's comments on his official Facebook page constitutes viewpoint discrimination and was undertaken in retaliation for Plaintiff's criticism of Candland's actions, as well as Harders's expressed political views, all of which are protected speech.
26. Defendant acted in clear violation of the law, outlined by the Constitution as well as very specifically by this Court. Left unchecked, Plaintiff and others will again suffer irreparable harm.
27. WHEREFORE, Defendant Candland's violations of the First and Fourteenth Amendment to the United States Constitution establish a cause of action pursuant to 42 U.S.C. § 1983, for injunctive relief, declaratory judgment, and monetary relief consisting of compensatory and punitive damages in the amount to be established at trial, and attorneys' fees and costs.

² On the same post, Candland additionally blocked comments from two other Prince William residents. Of note, the Facebook posts identify the number of comments at any point in time; the number of comments exceeded the number of viewable posts for approximately one week. All posts were unblocked only after Candland's actions were highlighted in a public forum Wednesday, July 13, 2022. One Prince William resident, Elena Schlossberg, was clearly blocked in retaliation for her organization's effort to effect Candland's recall. See http://www.bullrunnow.com/news/article/citizens_group_announces_effort_to_recall_gainesville_supervisor_pete_candl

COUNT II

Violation of Free Speech Protections Under Article I of the Virginia Constitution

28. Plaintiff incorporates the foregoing paragraphs into this Count II.

29. Defendant is subject to supplemental jurisdiction with regard to freedom of speech, as the federal question contemplated in this Complaint and the corresponding Virginia free speech protections “derive from a common nucleus of operating fact.” See United Mine Workers of America v Gibbs, 28 U.S.C. § 1367.

30. Defendant unconstitutionally banned Plaintiff from participating in certain discussion on his official Facebook page. Left unchecked, Plaintiff and others will again suffer irreparable harm.

31. Defendant’s actions have directly and proximately violated Plaintiff’s freedom of speech.

WHEREFORE, based upon the foregoing, Plaintiff demands against Defendant, in a nominal amount, for compensatory damages, as well as costs incurred in the pursuit of just resolution to this matter, prejudgment and post-judgment interest, and attorneys’ fees.

WHEREFORE, the Defendant’s conduct, having been so willful, intentional, wanton, and/or reckless as to evince a conscious disregard for the rights of others, Plaintiff demands the award of punitive damages against Defendants in a just amount to be established at trial, together with prejudgment and post-judgment interest, and allowable costs incurred.

WHEREFORE, Plaintiff seeks such further and additional relief as this Court deems just and proper.

Respectfully filed,

/s/



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