

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
CHATTANOOGA**

CHARLES FRANKLIN BURKHALTER,	§	
	§	
<i>Plaintiff,</i>	§	
	§	No. 22-cv-289
~v~	§	
	§	
COTY WAMP,	§	
as District Attorney General for	§	
the 11 th Judicial District of	§	
Tennessee,	§	
	§	
<i>Defendant.</i>	§	

COMPLAINT FOR INJUNCTIVE RELIEF

Plaintiff, through counsel, for his cause of action will show the Court:

Nature of the Case:

1. This is an action seeking injunctive relief to require the Defendant to cease all action against the Plaintiff that has resulted in deprivation of certain of his rights secured to him under the United States Constitution.
2. Further, Plaintiff seeks his attorney’s fees and expenses necessary to pursue this action.
3. Plaintiff brings this action pursuant to 42 U.S.C. §§ 1983 and 1988.

Jurisdiction and Venue:

4. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 over the federal question claims herein.
5. This Court is the proper venue pursuant to 28 U.S.C. §§ 1391(b)(1) and (b)(2), for the Defendant is a resident of, and performs her duties on behalf of Hamilton County, Tennessee, and all acts averred herein occurred within Hamilton County, Tennessee.

The Parties:

6. Plaintiff Charles Franklin Burkhalter (“Plaintiff”), is a resident of Hamilton County, Tennessee.

7. Defendant Coty Wamp (“Defendant”) is the elected District Attorney General for the 11 Judicial District located in Hamilton County, Tennessee.

Facts:

8. Plaintiff is a honorably discharged veteran of the United States Navy, having served in Vietnam during the Vietnam War.

9. Plaintiff is a 100% disabled veteran as a result of his combat experience and draws his income from the Veterans’ Administration and from social security, which is \$2,208.00 per month.

10. Plaintiff relies solely on the Veterans’ Administration for his health care.

11. On September 30, 2022, Plaintiff entered into an agreement (“agreement”) with the operators of what is known as The Lodge of Chattanooga, LLC d/b/a Budgetel Inn and Suites (“Budgetel”), located in the corporate city limits of East Ridge, Tennessee, to rent a room on a periodic basis (“the period”).

12. The period was from September 30, 2022 through November 29, 2022, and Plaintiff had sole possession and use of the room for the period.

13. The agreement required Plaintiff to pay Budgetel a total of \$978.50 for the entire period.

14. Plaintiff paid the \$978.50 in full from his limited income.

15. Prior to moving to the Budgetel, Plaintiff resided in an assisted living residence located in Dayton, Tennessee.

16. Plaintiff is also a partial amputee and cannot walk long distances.
17. Plaintiff does not own a motor vehicle, and he cannot legally operate a motor vehicle.
18. Plaintiff relies on taxis or rides he can obtain from other persons to go to the Veterans' Outpatient Clinic ("VA Clinic") to receive his medical care, which includes care for diabetes.
19. While living in Dayton, Tennessee, the nearest VA Clinic was in Athens, Tennessee.
20. The taxi fare from Dayton to Athens, and even Chattanooga was very expensive for his limited income.
21. Hence, Plaintiff chose to live in Chattanooga to be nearer to a VA Clinic.
22. The Budgetel at the time was the best option for Plaintiff since he could reside there for lengthy periods and did not have to pay deposits for power, rent, and utilities, and it was close to a nearby VA Clinic.
23. Additionally, Plaintiff's inability to obtain transportation made his ability to look for affordable rental property and travel to other places to do things like open a power account with EPB difficult.
24. When Plaintiff moved into the Budgetel, he owned few possessions. Those possessions included pots and pans, dishes and utensils, and a toaster oven and his sister (Dixie Bell) provided these few items. Plaintiff could not afford furnishings and the Budgetel provided all furnishings.
25. On or about November 14, 2022, Defendant filed a multi-paged petition seeking to "abate a nuisance" caused by the Budgetel.

26. Defendant signed the petition, which contained various claims of bad acts by unidentified persons.

27. Nowhere in the petition did Defendant mention anything about Plaintiff.

28. Plaintiff was never a party to the petition.

29. On November 16, 2022, at about 7 am, police knocked on Plaintiff's door and ordered him from his room and out into the cold. He was only allowed to leave with his clothes.

30. To be sure, some of the coldest weather of 2022 had just settled in.

31. Police refused to allow Plaintiff the time to find someone to help him gather his personal property and transport him to another location. Plaintiff returned to the Budgetel on November 17, 2022 to obtain his personal property and seek refund of his money, but found only a fence and no trespass notice on the fence, which prevented him from accessing his room. He has been unsuccessful in contacting anyone associated with the Budgetel.

32. Plaintiff, like all service-connected disabled veterans, receives his medicine, including all needles for his insulin, through the US Postal Service.

33. Plaintiff is at risk for missing his much-needed medicine until he can obtain more stable housing. Plaintiff currently resides at the "Stay Express Inn," which ironically is located across the street from the Budgetel.

34. Plaintiff has the Stay Express Inn room only from November 16, 2022 through November 20, 2022 at the rate of **\$328.32** for these four days. Plaintiff is not sure where he will be able to reside thereafter, and he is not sure if he will be able to continue to afford to reside at the Stay Express Inn at the rate he had to pay for these four days.

Cause[s] of Action:

35. The cold and callous actions of Defendant was tantamount to a dispossession of a leasehold of the room at the Budgetel without Due Process.

36. The cold and callous actions of the Defendant was tantamount to a seizure of his personal property without Due Process.

37. The cold and callous actions of the Defendant through the petition deprived Plaintiff of an ability to have proper notice of Defendant's scheme, and thus an inability to seek redress through the state court action Defendant initiated prior to Defendant kicking Plaintiff out into the cold.

38. Defendant took the cold and callous action without regard to the welfare of Plaintiff and numerous other occupants, many who are children.

39. Defendant's cold and callous actions happened just prior to the Thanksgiving holiday, during cold weather, and during a time when inflation is at its highest peak in decades, making it difficult for Plaintiff and others of limited means to find affordable housing and in Plaintiff's situation, replace the items his sister gave him.

40. Defendant's actions are in violation of the Due Process Clause of the Fourteenth Amendment to the United States Constitution and the Fourth Amendment of the United States Constitution since her state action resulted in a seizure of his personal property, deprived him of his funds that he paid for the room, and deprived him of his residence.

41. Only by this Court's intervention can Plaintiff be assured that the status quo will be maintained and give him an ability to return to his room, and to recoup his personal property. Since the Defendant failed to name Plaintiff or even as a group the residents of the Budgetel, they have no recourse in the state matter Defendant initiated.

42. Defendant does not have immunity from federal injunctive relief actions.

Wherefore, Plaintiff seeks the following relief:

- a. Declaratory relief by holding that Defendant's actions violated Plaintiff's constitutional rights set forth herein, and to require Defendant to allow Plaintiff to re-occupy his room and recover his personal property, **if it remains in the room and has not been stolen.**
- b. Grant Plaintiff's application for preliminary injunctive relief to be field forthwith.
- c. Award Plaintiff his costs, including reasonable attorney's fees and expenses pursuant to 42 U.S.C. § 1988.
- d. Trial by jury to determine if Defendant should be permanently enjoined from any further actions against Plaintiff as stated herein.
- e. All other relief allowed by law.

Respectfully submitted,

By: /s/ *Robin Ruben Flores*

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