

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

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| Amalgamated Transit Union, and |) | |
| Valerie Jefferson, |) | |
| <i>Plaintiffs,</i> |) | Case No. 21-cv-1790 |
| v. |) | |
| |) | Jury Demanded |
| New Orleans Regional Transit Authority, |) | |
| and Alex Wiggins, |) | |
| <i>Defendants.</i> |) | |

COMPLAINT

1. This is a suit by Plaintiffs Amalgamated Transit Union (“ATU”) and Valerie Jefferson against Defendants New Orleans Regional Transit Authority (“RTA”) and its CEO Alex Wiggins for firing Jefferson because of the content of her speech and her association within the ATU, its Local 1560, and her fellow members.

Parties

2. Plaintiff Amalgamated Transit Union is an international labor organization that represents transit workers throughout the United States and Canada, including persons employed by defendant RTA.

3. Plaintiff Valerie Jefferson is a member of the ATU and the President of ATU Local 1560. She was until recently employed by defendant RTA.

4. Defendant New Orleans Regional Transit Authority is a public transit authority established by law as a body politic and corporate. It is located in and has its principal place of business within this judicial district.

5. Defendant Alex Wiggins was at all relevant times and remains the chief executive of defendant RTA.

Jurisdiction and Venue

6. This Court has jurisdiction over the Plaintiffs' claims pursuant to 28 U.S.C. §§ 1331 and 1343 because they arise under the Constitution and laws of the United States, *i.e.*, the First Amendment and 42 U.S.C. § 1983.

7. Venue is proper under 28 U.S.C. § 1391 because the defendants are located in this judicial district and all the underlying events occurred within this judicial district.

Facts

Jefferson's Union position places her in opposition to Wiggins

8. Jefferson has worked as a public bus driver in the City of New Orleans since roughly 1993, with only brief interruptions in 1995 and 1996.

9. Jefferson was elected president of ATU Local 1560 in 2019 and continues to hold that office and to serve as business agent.

10. As President of Local 1560, she is the chief officer for the Local, and is the Union's counterpart to defendant Wiggins, who is the RTA's chief officer.

11. As President and Business Agent of Local 1560, Jefferson negotiates for and enforces the workplace rights of its roughly 386 members and associates with them for better wages, hours, and working conditions.

Jefferson's history of speech and association critical of RTA

12. Since 2019, Jefferson has been a strong and effective advocate, but also a fair partner, in collective bargaining.

13. As President and Business Agent for ATU Local 1560, Jefferson associates with her fellow members for purposes of securing fair wages, hours, and working conditions, and in doing so frequently negotiates against the RTA.

14. Jefferson has engaged in public speech and association critical of RTA, including throughout 2021.

15. One example is the issue of hazard pay and extra sick leave in connection with the COVID-19 public health crisis, as reported by channel 4, when she was quoted as saying: “They [the RTA] were reluctant to give us the [federal] money. They were pacifying us. To me, it was very disrespectful,” and that, “The federal government is taking care of the transit properties, but the transit properties aren't taking care of the employees.”¹

16. And in June 2021 Jefferson publicly criticized RTA for overworking bus operators rather than hiring new employees, creating a staffing shortage and creating unsafe conditions, *e.g.*, by having streetcar operators drive buses and work unfamiliar routes, as reported by Fox 8.²

17. Jefferson has also attended public meetings of the RTA Board of Commissioners, and on at least one occasion when she addressed the Board, defendant Wiggins took exception to her speech and told her to keep certain issues in house, and not discuss them publicly.

18. Thereafter, Wiggins would give Jefferson dirty stares in meetings.

Jefferson secures an emergency pay agreement related to Hurricane Ida

19. By written agreement dated September 5, 2021, Jefferson negotiated emergency schedules and pay for ATU Local 1560 members. **Exhibit A.**

¹ See <https://www.wwltv.com/article/news/investigations/mike-perlstein/some-bus-drivers-got-covid-hazard-pay-sick-time-others-got-t-shirts/289-dd8bf62d-c245-4311-b5e3-e7c5da3fa0b1> (last viewed September 14, 2021).

² See <https://www.fox8live.com/2021/06/29/rta-staff-shortage-leading-overworked-undertrained-drivers-according-local-union/> (last viewed September 14, 2021).

20. The agreement came about in response to the extreme impact Hurricane Ida had on the City of New Orleans and the communities served by the RTA and through negotiations where RTA said it would do whatever was necessary for transit operators to be available for work despite the hurricane-related conditions and aftermath.

21. The agreement was temporary in nature.

22. Jefferson, for the Union, negotiated the agreement with Thomas Stringer, for the RTA.

23. The agreement was signed under Wiggins' name, by Mark Major (Deputy CEO over administration and finance), under Wiggins' authority.

24. The agreement provided for significant emergency pay in the form of additional hours being paid, with overtime applying.

25. The agreement encouraged ATU Local 1560 members to be available for work despite the conditions created by Hurricane Ida within the RTA's service area.

RTA signals reticence at honoring the emergency pay agreement

26. On or around September 8, 2021, Jefferson began to hear rumors that RTA did not want to pay all the wages promised in the September 5 agreement.

Jefferson follows-up on enforcing the emergency pay agreement

27. On September 8, Jefferson worked a split-shift as a bus operator.

28. On such shifts, she would start early in the morning and work until 10:50 a.m.

29. After 10:50 a.m., Jefferson would be on "spread time" and not actively operating a bus, but would instead be available to handle her Union business, until returning to duty as a bus operator at roughly 1:20 p.m.

30. This was her established practice, of which RTA was aware and had acquiesced to.

31. On September 8, 2021, Jefferson followed her established practice and assumed her Union duties around 10:50 a.m..

32. Acting as union president and business agent, Jefferson went to speak with the managing clerk, Dale Delbit, to investigate the enforcement of the September 5 emergency pay agreement.

33. Jefferson approached Delbit because Delbit supervises payroll.

34. Delbit told Jefferson that Gerard Guter told her not to pay the emergency pay as negotiated.

35. Jefferson, who negotiated the agreement with Stringer, believed that the agreement basically provided for a bus operator to be paid: (1) for their regular shift, (2) an extra 12 hours and (3) an extra 10 hours (or an extra 8 hours for a bus operator who normally works the extra board).

36. Through speaking with Delbit, Jefferson learned that RTA was instead directing that no one be paid more than 22 hours a shift.

37. Jefferson showed Delbit a copy of the signed emergency pay agreement and together they called Mark Major, who oversees finances at RTA, who said they would talk later.

38. Continuing to handle her union business, Jefferson next went to see Thomas Stringer to discuss outstanding grievances and other workplace issues including the emergency pay, in large part because Stringer had been the one who negotiated the emergency pay for RTA.

39. Stringer was deputy CEO and COO for RTA.

40. Jefferson asked Stringer about the emergency pay.

41. Stringer told Jefferson he had been fired.

42. Because of Stringer's past involvement in negotiating the emergency pay, and the apparent refusal of RTA to keep its promises made in that agreement, Jefferson took his firing as a further signal that Wiggins would renege on the emergency pay agreement.

43. Continuing her efforts to investigate and enforce the emergency pay agreement, Jefferson went to Wiggins' office.

44. Jefferson asked Wiggins if he had in fact fired Stringer.

45. Wiggins confirmed that he had.

46. In response, and viewing this as a sign that Wiggins and the RTA had buyer's remorse over the emergency pay agreement negotiated by Stringer and would break their contractual promises, Jefferson told Wiggins, "Well, I know what kind of person I'm dealing with. It's on. I need to talk with my executive board."

47. Jefferson was exiting Wiggins' office as she made this statement.

48. The entire exchange with Wiggins lasted roughly 30 seconds, and neither Jefferson nor Wiggins raised their voice, or took any physical acts toward each other.

Defendants fire Jefferson because of her speech and association

49. Roughly 40 minutes after she had left Wiggins' office, Jefferson was called by a clerk and directed to report to the office.

50. She followed that direction, and was confronted by Gerard Guter, Christopher Clark (the rail manager) and human resources manager Gisele Williams.

51. Jefferson was asked for her side of the story of her interaction with Wiggins, which she gave.

52. Despite having just received Jefferson's side of things, she was presented with an already prepared notice of discipline. **Exhibit B.**

53. The discipline was signed by Mr. Clark and appeared to charge Jefferson with threatening behavior directed at Wiggins in violation of the RTA handbook.

54. The level of discipline was termination.

55. Defendants gave no reason for firing Jefferson other than her speech, *i.e.*, that she allegedly told Wiggins "It's on now bitch," in a "threatening manner." **Exhibit B.**

56. Jefferson denies calling Wiggins a "bitch."

57. Jefferson engaged in conduct that is a normal part of labor relations.

58. Jefferson made no physical threats or any threat of violence toward Wiggins or anyone, and the letter attached as **Exhibit B** on its face identifies no specific threat to Wiggins.

59. Wiggins provided a statement about the interaction, attached as **Exhibit C.**

60. In that statement Wiggins alleged that Jefferson said, "it's on now, bitch," but never claimed to have felt threatened.

61. It is inconceivable that Wiggins, who is physically larger and stronger, was threatened by Jefferson as she exited his office.

62. The only conceivable way that Wiggins could have been "threatened" was that Jefferson would use her legal rights to enforce the emergency pay agreement, or that her fulfilling her duties as Local 1560 President and Business Agent generally was viewed as a personal affront to Wiggins' authority as RTA CEO.

63. At all times during her interaction with Wiggins on September 8, 2021, Jefferson was doing so as President and Business Agent of ATU Local 1560 and seeking to enforce the wages due to her members for protecting the public during a public emergency.

64. Her speech to ensure the agreed-upon pay for bus drivers during the public emergency was on behalf of her members and in the public interest.

65. Her association with other members of ATU Local 1560, and her representation of them in collective bargaining relations including contract enforcement with RTA and Wiggins was protected by the First Amendment.

66. Loss of employment would deter a person of ordinary firmness from engaging in protected speech or association.

67. After firing Jefferson, and on or around September 16, 2021, the RTA gave notice that it no longer recognized Jefferson as the President of ATU Local 1560. **Exhibit D.**

68. Despite her firing from her employment at the RTA, Jefferson remains the President of ATU Local 1560.

69. The RTA has no lawful authority or right to determine who represents Local 1560.

70. But in refusing to recognize Jefferson's legal authority, the RTA has interfered with her legal rights, and further retaliated against her because of her political activity, protected speech, and protected association.

COUNT I—VIOLATION OF FIRST AMENDMENT

71. As set forth above, the speech and speech-related conduct of Jefferson on behalf of herself and in association with the members of Local 1560 for their pay during a public emergency is speech that is of importance to the public, including her members and the people they serve.

72. In particular, the bus drivers represented by Jefferson played an important role in a public emergency and put themselves at risk.

73. As set forth above, Jefferson was at all times speaking in her capacity as a local union officer and not as an employee of the RTA.

74. As set forth above, the interests of Jefferson and the members of Local 1560 in speaking out to ensure the full payment of their wages and in full and fair and frank discussion of collective bargaining concerns outweighs the interest of the RTA and Wiggins in disciplining her for such speech.

75. As an employer, defendant RTA has no legitimate interest in regulating the speech of plaintiff Jefferson, and disciplining plaintiff Jefferson, when she is acting in her capacity as Local 1560 President and Business Agent, except in the case of a specific threat or act of violence which is wholly absent here.

76. Furthermore, as set forth in **Exhibit D**, RTA management has since notified Jefferson that she can no longer speak to the RTA as president of the Local on behalf of her members because RTA has fired her for her attempt to ensure the payment of wages to the Local 1560 membership.

77. In violation of 42 U.S.C. § 1983, and by firing Jefferson in retaliation for her protected speech and/or association, and seeking to eliminate or at least undermine her ability to carry out her duties as an elected officer of Local 1560, Wiggins and RTA have deprived Jefferson and the members of ATU Local 1560 of their rights protected by the First Amendment.

78. By such acts, defendants have proximately caused irreparable injury to Jefferson in that the firing of Jefferson is intended to have a chilling effect on her advocacy of her members and to undermine her ability to speak and negotiate on behalf of them, and in furtherance of their voluntary association.

WHEREFORE, Plaintiffs pray this Court:

- (1) Enter judgement in their favor and against defendants RTA and Wiggins,
- (2) Order that defendants reinstate Jefferson to her employment, with full backpay and that she otherwise be “made whole,”
- (3) Grant plaintiff Jefferson compensatory damages for her unlawful discharge,
- (4) Enjoin defendants from further retaliating against Jefferson or any other member of Local 1560 for protected speech and association, and send notice to all members of Local 1560 to such effect,
- (5) Award Plaintiff Amalgamated Transit Union such nominal damages as are appropriate, and
- (6) Award Plaintiffs their reasonable costs and attorney’s fees under 42 U.S.C. § 1988 or as otherwise available.

Date: September 28, 2021

Respectfully submitted,

/s/ Thomas M. McEachin

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