

IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS

JOHN KRAFT,	)	
	)	
PLAINTIFF,	)	
	)	
V.	)	CASE No. 25-cv-3016
	)	
COUNTY OF SHELBY AND TAD	)	
MAYHALL, INDIVIDUALLY AND NOT	)	
IN HIS OFFICIAL CAPACITY AS	)	TRIAL BY JURY DEMANDED
COUNTY BOARD CHAIRMAN	)	
	)	
DEFENDANTS.	)	

**FIRST AMENDED COMPLAINT FOR VIOLATION OF CIVIL RIGHTS**

NOW COMES Plaintiff, JOHN KRAFT( hereinafter “KRAFT” by and through his attorneys ROBERT T. HANLON, AND DANIEL OLSWANG OF THE NETZKE OLSWANG LAW GROUP LLC, with his 1<sup>st</sup> Amended Complaint against Defendants, County of Shelby (hereinafter “SHELBY CO.”), TAD MAYHALL (Hereinafter “MAYHALL”), collectively SHELBY CO. and MAYHALL are referred to as “Defendants” with their complaint against defendants.

**Parties**

- 1) Plaintiff, JOHN KRAFT, is an Illinois Citizen.
- 2) The County of Shelby (herein “Shelby Co.”) is a political subdivision of the state of Illinois being a unit of local government with its county seat in Shelbyville, Illinois within the Central District of Illinois.
- 3) Tad Mayhall is the current County Board Chairman for Shelby County Illinois, is an Illinois citizen and resides at 1184 N 1300 East Rd., Shelbyville, IL 62565

**JURISDICTION AND VENUE**

- 4) This Court’s jurisdiction arises (a) from the fact this is an action brought under the Constitution of the United States, jurisdiction conferred by 28 U.S.C. §1331; and (b) by virtue of a

violation of 42 U.S.C. 1983 et seq. conferring jurisdiction under 28 U.S.C. 1331 to determine a question of federal law.

5) Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b).

### **SHORT STATEMENT OF THE CASE**

6) This case concerns the abuse of power by SHELBY CO. and MAYHALL. During a public meeting on or about Thursday January 9, 2025 a non party to this action (Jake Cole) interrupted the board and interjected on several occasions. Given the Board allowed Mr. Cole to speak out of order, John Kraft inquired of the board if the floor was open for public debate. MAYHALL without warning to either Mr. Cole or Mr. Kraft immediately moved the board to remove only John Kraft from the public meeting. By Majority vote the board removed John Kraft and did not vote concerning Mr. Cole's repeated interruptions of the meeting. The action to remove Plaintiff violated his civil rights and protections under the First (1<sup>st</sup>) Amendment and 42 U.S.C. Section 1983. Kraft seeks damages against Shelby County and Tad Mayhall. Count I is a claims under 42 U.S.C. 1983 for the deprivation of civil rights to KRAFT and Count II is a Count for violations of the constitutional protections afforded Kraft for violating his right to free speech. Count III is a count for violations of the constitutional protection of equal treatment under the 5<sup>th</sup> and 14<sup>th</sup> Amendments.

### **FACTS ASSOCIATED WITH THE RESPECTIVE COUNTS**

7) Plaintiff, John Kraft, is a member of a private organization, Edgar County Watchdogs, whose purpose is "to foster accountability, truth, and transparency in our local governing bodies." Mr. Kraft regularly publishes articles on the Edgar County Watchdogs' (hereinafter "ECW") website Illinoisleaks.com.

8) ECW has been credited with uncovering public corruption and investigative reporting by the following publications: *Forbes*, *Chicago Tribune*, *National Review*, *JD Supra*, *Peoria*

*Journal Star, Capitol Fax, The CT Mirror, The Daily Caller, Illinois Review, Belleville News-Democrat, The Herald Bulletin, Fox News, Industry Magazine, World Sweeper, Paddock Publications-Daily Herald, Kankakee Daily Journal, The Washington Times, Lens of Liberty, Independent Journal Review, Illinois Times, Cook County Record, DuPage Policy Journal, Daily Caller News Foundation, The News-Gazette, Patch, The Herald-News, ChicagoNow, In The Loop – PBS-Chicago, Forbes, Examiner Publications, Fox32 Chicago, National Law Review, NBC News, CBS News, Peoria Public Radio, WAND TV, RTV6 The Indy Channel, Fox 59, WTTV: CBS4 - Indianapolis, WISH-TV, State Policy Network (SPN), Sauk Valley News – Shaw Local,* and Better Government Association “BGA”. Even the United States Department of Transportation cited to ECW in its own “DOT News Briefing”.

9) The *Chicago Tribune* credited the work of ECW as exposing corruption associated with the then Illinois Auditor General, Frank Mautino’s questionable expenditures.

10) *WCBU*, Peoria Public Radio, a joint service of Bradley University and Illinois State University published an article on April 29, 2020 crediting the work of ECW with the exposure of unlawful stay at home orders of Illinois Governor J.B. Pritzker.

11) Upon information and belief, Tad Mayhall participated in a public effort to pressure Kraft and the Edgar County Watchdogs to stop coverage on Shelby County including contributing and paying for signs stating “Watch dogs go home” and depicting a dog surrounded with a circle and a line traversing the image of a dog.

12) Plaintiff, JOHN KRAFT, is one of two primary authors for articles published by ECW.

13) KRAFT has been reporting on Shelby County for several years. Amongst his various publications were a series of articles critical of the Shelby County Board. Amongst the many articles published concerning Shelby County are the following:

- a. Shelby County unresearched legal opinions – will they ever learn 1/4/25

- b. Shelby County – watchdog model working? 12/20/24
  - c. Shelby County – Board Elects Felony indicted Theresa Boehm as VC 12/3/24
  - d. Shelby County Dive Team Roster Mystery - 11/30/24
  - e. Shelby County – shoot the Messenger Mentality; Mayhall Wrong Again 10/25/24
  - f. Shelby County and Dive Team sued again for public records 12/31/24
  - g. Carol Cole wants Shelby County Farm to be Cash leased.
  - h. Update: Shelby County – Compensation setting of certain elected officials never complied with – Will the law be followed 12/17/24
  - i. Shelby County Conflict recognized? Board member fails to Vote as law Requires 12/12/24
  - j. Shelby County State’s Attorney Ruth Woolery appoints attorney to take Child Sex Related Cases 12/2/24
  - k. Shelby County – Conflict of Interest – 101 11/29/24.
  - l. Shelby County – voters not buying local propoganda? 11/6/24
  - m. Shelby County – Amended FOIA Complaint filed – State’s Attorney named in two Counts 11/5/24.
  - n. Shelby County – Hatch Act Violation Allegation unfounded. 10/23/24
  - o. Shelby County – When it rains it Pours the Hits Keep Coming 10/17/24
- 14) Fourteen (14) of ECW’s articles mention Defendant Mayhall.
- 15) ECW has published approximately 500 articles concerning Shelby County and most are focused on Shelby County’s violations of law, malfeasance in Shelby County, and many are critical of abuses in Shelby County government.
- 16) Plaintiff has appeared at the monthly meetings of Shelby County for several years.

17) Plaintiff has regularly spoken during public comment at a significant number of meetings he has attended over the last five years.

18) On or about January 9, 2025, John Kraft appeared at the Shelby County courthouse to attend the County Board meeting which was held in Courtroom A.

19) There Mr. Kraft set up his video camera and began recording the meeting as he has done on countless occasions. Shelby County published its video on YouTube and a true and accurate copy of the events that took place in the meeting can be seen at:

<https://www.youtube.com/live/BVOhA5ajmIo?si=QS7CHlaFDvvTeBEU&t=1800> . Said video is incorporated herein by reference.

20) Within the posted video, Mr. Jake Cole can be seen in the lower right side of the video sitting in the location typically reserved for board members.

21) Approximately 25 minutes into the board meeting a discussion amongst board members involved a question of whether or not the county was likely to be exposed to civil liability. A member of the public, Jake Cole, who upon information and belief, is politically aligned with MAYHALL began interrupting and participating in the discussion.

22) The first of Mr. Cole's numerous interruptions is approximately 27 minutes into the recording.

23) Mr. Cole interrupted the county board meeting at 27:26 minutes into the recording, or thereabouts.

24) Mr. Cole interrupted the county board meeting at 30:06 minutes into the recording, or thereabouts.

25) Mr. Cole interrupted the county board meeting at 30:16 minutes into the recording, or thereabouts.

26) After Mr. Cole's numerous interruptions, the Board took no action against Mr. Cole for his interjections which included: "Did you talk to an attorney", "was it a big lawyer", "your talking to the wrong people", "Hey, I know this guy's family, these are friends of mine."

27) Plaintiff inquired if the discussion was open to everyone in the room given that the Board was allowing Mr. Cole to participate after his repeated interruptions.

28) MAYHALL immediately moved to have Plaintiff removed from the meeting for making the inquiry.

29) By majority vote, without any warnings, and without uniformly applying a sanction removed Kraft and allowed Jake Cole to remain in the meeting.

30) After the Vote, MAYHALL, then ordered Kraft to leave the room.

31) By removing Mr. Kraft and not removing Jake Cole, the Shelby County Board denied KRAFT equal protection under the law.

32) By removing Kraft unjustly, Defendants denied Kraft the Right to speak at public comment thus interfering with his constitutional right guaranteed to him under the First Amendment of the Constitution of the United States of America of free speech.

**COUNT I – 42 U.S.C. 1983 et seq**

33) Plaintiffs incorporates Paragraphs 1 through 32 by reference as though fully alleged in this paragraph.

34) Defendants acted in concert with each other to unlawfully deprive Plaintiff his constitutional right to due process under the United States Constitution, 5<sup>th</sup> and 14<sup>th</sup> Amendments by removing Kraft without removing Jake Cole.

35) There was no lawful reason to have Kraft removed from the meeting. His inquiry was proper as MAYHALL allowed a member of the Public (Jake Cole) to participate in County Board's discussion.

- 36) The actions of Defendant to deny Plaintiff of equal treatment denied Kraft at least two of his civil rights including free speech and equal protection under the law and were done under the color of state authority.
- 37) The Concerted action by Defendants was designed to limit the right of KRAFT to exercise his right of free speech and association.
- 38) The violation of Kraft's right to speak caused him injuries.
- 39) Kraft had a right to express himself and that right was denied by removing him from the County Board meeting.
- 40) At all relevant times to this complaint, MAYHALL was a state actor acting under the color of state authority.
- 41) As an aid to the Court in this unique case, Plaintiff provides the following citations for the proposition that MAYHALL was a state actor acting under the color of state authority: *Willis v. Carroll Twp.*, Civ A. No. 07-949, 2008 U.S. Dist. Lexis 17020, 2008 WL 644762 at 5 (M.D. Pa Mar 5, 2008 and *El-Bey v. Allentown Police Dep't.* 2023 U.S. Dist Lexis 88693, 2023 WL 359145. *Belkowski v. Kruczek*, No. 09-cv-1549, 2010 U.S. Dist. LEXIS 34194, 2010 WL 1433099, at \*3 (W.D. Pa. Apr. 7, 2010) (citing *Frompovic v. Twp. of S. Manheim*, No. 06cv2120, 2007 U.S. Dist. LEXIS 74361, 2007 WL 2908292, at \*8 (M.D. Pa. Oct. 4, 2007) (concluding that plaintiff stated viable section 1983 claim against attorney who went beyond making recommendations and decided official government policies); *see also Willis*, 2008 U.S. Dist. LEXIS 17020, 2008 WL 644762, at \*6 (characterizing *Frompovic* as "holding that a township solicitor acted under color of state law when he exercised policy-making authority"), *Robinson v Higgins* 2024 U.S. App Lexis 19611 (6<sup>th</sup> Cir. 2024) (finding that State action by a private actor may be found if there is such a close nexus between the State and the challenged action that seemingly private behavior may be fairly treated as that of the state itself. Citing to *Brentwood Acad. v. Tennessee Secondary Sch. Athletic Ass'n*, 531 U.S. 288, 295, 121 S.

Ct. 924, 148 L. Ed. 2d 807 (2001) (quoting *Jackson v. Metro. Edison Co.*, 419 U.S. 345, 351, 95 S. Ct. 449, 42 L. Ed. 2d 477 (1974)); see *Brent v. Wayne Cnty. Dep't of Hum. Servs.*, 901 F.3d 656, 676 (6th Cir. 2018). *Barnard v. Young*, 720 F.2d 1188. *Adickes v. S. H. Kress & Co.*, 398 U.S. 144, 152 (private party -non state actor liable under 1983 if willful participant in joint activity with the state or its agents) with citation to *United States v Price*, 383 U.S.787, 794 (1966).

**WHEREFORE**, the Plaintiff, John Kraft, prays that this Honorable Court enter judgment in his favor and against the Defendants, Shelby County and Tad Mayhall as follows:

- A. Compensatory damages in an amount to be determined at trial for the above-described violation of the Due Process Clause of the 1st Amendment to the Constitution of the United States of America;
- B. Compensatory damages in an amount to be determined at trial for the above-described violation of the Due Process Clause of the 5<sup>th</sup> and 14 Amendments to the Constitution of the United States of America;
- C. An award of Plaintiff's costs and expenses, together with reasonable attorneys' fees under the applicable Illinois rule and 42 U.S.C. 1988;
- D. For punitive damages against Tad Mayhall; and
- E. For such other and further relief as this Court deems fair and just.

## **COUNT II**

### **(First Amendment to the United States Constitution – Free Speech)**

- 42) Plaintiff incorporates Paragraphs 1 through 41 by reference as though fully alleged in this paragraph.
- 43) The First Amendment to the United States Constitution provides:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right



of the people peaceably to assemble, and to petition the Government for a redress of grievances.

- 44) At all times relevant to this case, Kraft had a right to be present in the public meeting and voice his opinion when the County Board allowed others with differing opinions to speak during the meeting.
- 45) The Defendants actions were conducted in a manner which shocks the conscience, with deliberate indifference and/or reckless disregard for the rights of Kraft to be free from the government abridging his First (1<sup>st</sup>) Amendment right of free speech.
- 46) The Defendants have violated Kraft's free speech rights in a number of ways, including actions taken to remove him for speaking freely and then prohibiting him from providing public Comment which was reserved to the end of the meeting where the County allowed others to speak in public comment but by removing Kraft from the Meeting he was not allowed the right to speak to the whole board about matters that it discussed outside Kraft's presence.
- 47) The Defendants denied Kraft the opportunity to participate as a member of the Public in a public meeting, denied him any due process rights, and denied him equal protection under the law by removing Kraft and not removing Jake Cole.
- 48) The Defendants failed to gavel Kraft before taking the matter to a vote to violate his constitutional right of free speech.
- 49) The First Amendment of the United States Constitution protects the five fundamental rights of the People. One of which is the right of Free Speech. This right was patently denied Kraft because the Board unlawfully removed Kraft from the meeting and allowed another non-board member to speak freely.

50) The Defendants violated the substantive First (1<sup>st</sup>) Amendment right of free speech of Kraft who had the right to be free from state actions that would deprive him his liberty interest in being present at a public meeting to invoke his right of free speech. These actions of preference to Jake Cole and prejudice against Kraft should shock the conscience of this Court.

57. As a further direct and proximate result of the acts of the Defendants, including their violation of the constitutional rights of Kraft, Kraft has suffered damages and incurred attorneys' fees.

**WHEREFORE**, the Plaintiff, John Kraft, prays that this Honorable Court enter judgment in its favor and against the Defendants, SHELBY COUNTY and TAD MAYHALL, as follows:

- A. Compensatory damages against the Defendants in an exact amount to be proven at trial for the above-described violation of the First (1<sup>st</sup>) Amendment of the United States Constitution;
- B. An award of Plaintiff's costs and expenses, together with reasonable attorneys' fees under the applicable Illinois rule and 42 U.S.C. 1988;
- C. For punitive damages against the Defendants; and
- D. For such other and further relief as this Court deems fair and just.

### **COUNT III**

#### **(Fifth and Fourteenth Amendment to the United States Constitution – Due Process)**

51) Plaintiff incorporates Paragraphs 1 through 50 by reference as though fully alleged in this paragraph.

52) The Due Process Clause of the Fourteenth Amendment to the United States Constitution provides that no states shall “deprive any person of life, liberty or property without due process of law.”

53) At all times relevant to this case, Kraft had a right to be present in the public meeting and voice his opinion when the County Board allowed others with differing opinions to speak during the meeting.

54) The Defendants actions were conducted in a manner which shocks the conscience, with deliberate indifference and/or reckless disregard for the rights of Kraft.

55) The Defendants have violated Kraft's due process in a myriad of ways.

56) The Defendants denied Kraft the opportunity to participate as a member of the Public in a public meeting, denied him any due process rights, and denied him equal protection under the law by removing Kraft and not removing Jake Cole.

57) The Defendants failed to gavel kraft before taking the matter to a vote to violate his constitutional rights.

58) The Due Process Clause of the United States Constitution protects the rights of people not to have their rights taken without due process of law.

59) The Due Process Clause of the United States Constitution prohibits the deprivation of property rights without adequate procedural protections. There were no procedural protections afforded Kraft as Shelby County had not adopted any policies for the removal of individuals from a public meeting.

60) The Defendants violated the substantive due process rights of Kraft who had the right to be free from state actions that would deprive him of his liberty interest in being present at a public meeting. These actions of preference to Jake Cole and prejudice against Kraft should shock the conscience of this court.

61) As a further direct and proximate result of the acts of the Defendants, including their violation of the constitutional rights of Kraft, Kraft has suffered damages and incurred attorneys' fees.

**WHEREFORE**, the Plaintiff, John Kraft, prays that this Honorable Court enter judgment in its favor and against the Defendants, SHELBY COUNTY and TAD MAYHALL, as follows:

- E. Compensatory damages against the Defendants in an exact amount to be proven at trial for the above-described violation of the Due Process Clauses of the United States Constitution;
- F. An award of Plaintiff's costs and expenses, together with reasonable attorneys' fees under 42 U.S.C. 1988;
- G. For punitive damages against the Defendants; and
- H. For such other and further relief as this Court deems just and equitable.

Respectfully submitted:

/s/Robert T. Hanlon

ROBERT T. HANLON  
One of JOHN KRAFT's Attorneys

Robert T. Hanlon  
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Demand for Trial by Jury

Plaintiff, John Kraft, demands trial by jury as to all issues triable by a Jury.

/s/Robert T. Hanlon

ROBERT T. HANLON  
One of JOHN KRAFT's Attorneys