

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE

DENNIS BYERS,  
LESLIE BRENT KING,  
CLARENCE T. BIRDWELL,  
GREG SMARTT,

Plaintiffs,

VS.

NO. \_\_\_\_\_  
(JURY DEMAND)

HUBERT HARGIS, INDIVIDUALLY  
AND IN HIS CAPACITY AS  
GRUNDY COUNTY, TENNESSEE  
ROAD SUPERINTENDENT,

THE GRUNDY COUNTY, TENNESSEE  
HIGHWAY DEPARTMENT,

and

GRUNDY COUNTY, TENNESSEE,

Defendants.

COMPLAINT

Plaintiffs, Dennis Byers, Leslie Brent King, Clarence T. Birdwell and Greg Smartt, for cause of auction would respectfully show as follows:

JURISDICTION

1. This case arises under the United States Constitution, particularly the provisions of the First and Fourteenth amendments to the Constitution of the United States, and under Federal law, particularly the Civil Rights Act, Title 42 of the United States Code, Section 1983.

2. This Court has jurisdiction of this cause under the provisions of Title 28 of the United States Code, Section 1331 and 1343.

## PARTIES

3. Plaintiff, Dennis Byers, is a citizen and resident of Grundy County, Tennessee.
4. Plaintiff, Leslie Brent King, is a citizen and resident of Grundy County, Tennessee.
5. Plaintiff, Clarence T. Birdwell, is a citizen and resident of Grundy County, Tennessee.
6. Plaintiff, Greg Smartt, is a citizen and resident of Grundy County, Tennessee.
7. The Defendant, Hubert Hargis, is a citizen and resident of Grundy County, Tennessee, and at all times relevant hereto was the elected County Road Superintendent of Grundy County, Tennessee.
8. The Defendant, Grundy County Highway Department, is a department of Grundy County Government charged with the responsibility of maintaining the roads and highways in Grundy County, Tennessee.
9. The Defendant, Grundy County, Tennessee, is a governmental entity organized and existing under the laws of the State of Tennessee.
10. In doing the acts alleged in this Complaint, the Defendant, Hubert Hargis, was acting under the color of the statutes, ordinances, regulations, customs and usages of the Defendant, Grundy County, Tennessee and the State of Tennessee and under his respective office as Grundy County Road Superintendent.

## FACTS CENTRAL TO PLAINTIFFS' CLAIMS

11. Plaintiff, Dennis Byers, worked for the Grundy County Road Superintendent for eleven years as a truck driver for the Grundy County Highway Department. During his employment, Plaintiff, Byers has been a safe and efficient driver for the Grundy County Highway

Department. Dennis Byers was a good employee. His position was neither a policy making nor confidential position and political affiliation was not an appropriate requirement for the effective performance of his job.

12. Plaintiff, Leslie Brent King, had worked for the Grundy County Superintendent for nine years as a truck driver for the Grundy County Highway Department prior to his termination. During his employment, Plaintiff, King, has been a safe and efficient driver for the Grundy County Highway Department. Leslie Brent King was a good employee. His position was neither a policy making nor confidential position and political affiliation was not an appropriate requirement for the effective performance of his job.

13. Plaintiff, Clarence T. Birdwell, had worked for the Grundy County Superintendent for four years as a truck driver for the Grundy County Highway Department prior to his termination. During his employment, Plaintiff, Birdwell, has been a safe and efficient driver for the Grundy County Highway Department. Clarence T. Birdwell was a good employee. His position was neither a policy making nor confidential position and political affiliation was not an appropriate requirement for the effective performance of his job.

14. Plaintiff, Greg Smartt, worked for the Grundy County Superintendent for twenty one (21) years as a mechanic for the Grundy County Highway Department prior to being constructively discharged from his position with the Grundy County Highway Department.

15. In 2014, the position of Superintendent of Roads for Grundy County, Tennessee was open for election. The incumbent, Hubert Hargis, sought to retain the office. He had opposition in the Democratic primary which was held on May 6, 2014. He barely won the election with thirty percent (30%) of the votes against two opponents. The actions of the Road Superintendent, Hubert Hargis, against the Plaintiff, Greg Smartt, occurred during this election in February, 2014. The actions against the Plaintiffs, Dennis Byers, Leslie Brent King and Clarence T. Birdwell, occurred the day after the primary election.

16. Plaintiff, Greg Smartt, was constructively discharged by the Defendant, Hubert Hargis, as follows:

The Defendant, Hubert Hargis, angrily approached the Plaintiff, Greg Smartt, in February, 2014 and accused the Plaintiff of campaigning for candidate Michael Meeks. The Plaintiff denied this but the Defendant, Hubert Hargis, persisted in accusing the Plaintiff of voting for another candidate. The Plaintiff, Greg Smartt, stated to the Defendant that he was not campaigning for any candidate but in response to the Defendant's insistence that Plaintiff tell Defendant who he was voting for, the Plaintiff honestly told the Defendant, Hubert Hargis, he was voting for candidate Johnny Ray Fults. The Defendant, Hubert Hargis, began questioning the Plaintiff, Greg Smartt's sick days. The Defendant, Hubert Hargis, became even angrier and left but came back and began making false allegations against the Plaintiff, Greg Smartt. Mr. Smartt realized that he could not work under these conditions and turned in his notice to leave his employment of twenty one (21) years. The Plaintiff, Greg Smartt, states the termination of his employment amounts to constructive discharge by the Defendants.

17. Plaintiffs, Dennis Byers, Leslie Brent King and Clarence T. Birdwell, were called aside by Superintendent, Hubert Hargis, on May 7, 2014, the morning after the primary election, and told words to the effect that he was “letting them go”, i.e., terminating their employment from the Grundy County Highway Department, telling Plaintiff, Leslie Brent King, “y’all tried to take my job, now I’m taking yours”, and telling both Plaintiffs, Dennis Byers and Clarence T. Birdwell, they were fired for not supporting him in the election.

18. Later, after being asked by these Plaintiffs for a termination slip the Defendant, Hubert Hargis, issued separation notices falsely claiming the Plaintiffs’ discharges were for poor performance, killing time and parking on the side of the road.

#### CAUSES OF ACTION

19. The conduct of the Defendants, as described above, violated the Plaintiffs’ First and Fourteenth Amendments, Rights of Free Speech and free association. Plaintiffs were discharged from their employment solely because their employer, the Defendant, Hubert Hargis, believed they did not support his election, the 2014 Grundy County Primary Election.

20. Patronage dismissals of governmental employees, who do not hold policy making or confidential positions have been recognized as unconstitutional since 1976, when the U.S. Supreme Court issued its opinion in the case of Elrod vs. Burns, 96 S.Ct. 2673.

21. Defendant, Grundy County, Tennessee, delegated its decision making authority for hiring and firing employees at the Grundy County Highway Department to the Defendant, Superintendent, Hubert Hargis. The Defendant, Grundy County, Tennessee is liable in this cause for action taken by Superintendent, Hubert Hargis against these Plaintiffs as described in this Complaint.

22. By terminating or constructively discharging Plaintiffs for failing to support the incumbent Road Superintendent, Hubert Hargis in the election, Grundy County, Tennessee and Hubert Hargis, acting through the Grundy County Highway Department and Defendant, Hubert Hargis, clearly violated the Plaintiffs' constitutional rights.

23. Premises considered, Plaintiffs' pray for the following relief from this Honorable Court.

a. For actual and compensatory damages including emotional damages and humiliation in an amount not to exceed \$4,000,000.00;

b. For punitive damages as allowed by Federal and State Law in the amount of \$4,000,000.00;

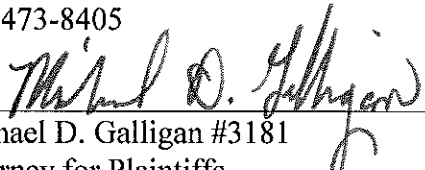
c. For all of Plaintiffs' attorneys' fees and costs in this matter;

d. for a jury to try this cause; and

e. For such other general and further relief as this Court may deem just and proper.

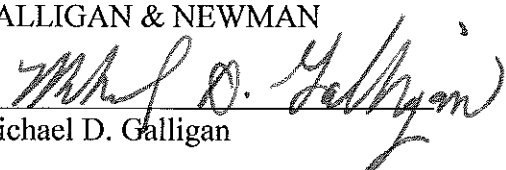
RESPECTFULLY SUBMITTED,

GALLIGAN & NEWMAN  
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McMinnville, TN 37110  
931-473-8405

  
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Michael D. Galligan #3181  
Attorney for Plaintiffs

We are sureties for all costs of this cause awarded against the Principal.

GALLIGAN & NEWMAN

  
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Michael D. Galligan