

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

GLORIA ALLRED,	*	
	*	
Plaintiff,	*	
	*	CIVIL ACTION FILE
-vs-	*	
	*	No. _____
COBB COUNTY, GEORGIA,	*	
COBB-MARIETTA COLISEUM	*	
AND EXHIBIT HALL AUTHORITY,	*	
and MICHAEL S. TAORMINA,	*	
in his official capacity as	*	
Managing Director of the	*	
Cobb-Marietta Coliseum and	*	
Exhibit Hall Authority,	*	JURY TRIAL DEMANDED
	*	
Defendants.	*	

COMPLAINT

NATURE OF THE CASE

1.

This is a First Amendment case. Although the First Amendment refers to the right to speak, courts have long recognized that it also protects the right to receive the speech of others. When the Cobb Energy Performing Arts Centre - which is owned and operated by the government -- booked Bill Cosby to perform in its theatre on May 2, 2015, it knew that Mr. Cosby's public performance would qualify as protected speech. It also knew, or it should have known, that Gloria Allred herself had a First Amendment right to view and listen to that performance. Yet these defendants, without justification or explanation, prohibited Ms. Allred

from stepping foot into the Centre that night. With this complaint, and among other forms of relief, Allred seeks an order which permanently enjoins the defendants from carrying out the Centre's viewpoint-based admissions policy.

PARTIES

2.

Plaintiff Gloria Allred ("Allred") is a citizen of the State of California and is entitled to assert claims of this kind and nature.

3.

Defendant Cobb County ("the County") is a political subdivision of the State of Georgia, which has the capacity to sue and be sued.

4.

Defendant Cobb-Marietta Coliseum and Exhibit Hall Authority ("the Authority") is a political subdivision of the State of Georgia, which has the capacity to sue and be sued.

5.

Defendant Michael S. Taormina is the Managing Director of the Authority ("Taormina" or "the Managing Director"). He is sued in his official capacity only.

VENUE

6.

All acts or omissions alleged in this complaint have occurred, or likely will occur, in the Northern District of Georgia and therefore venue is properly within this district under 28 U.S.C. § 1391(b)(2).

JURISDICTION

7.

Jurisdiction for this suit is conferred by 42 U.S.C. § 1983, which provides in part:

Every person who, under color of any statute, ordinance, regulation, custom or usage, of any State or Territory, or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

8.

Declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 & 2202.

9.

Under 28 U.S.C. §§ 1331 and 1343(a)(3)&(4), the Court can entertain an action to redress a deprivation of rights guaranteed by the United States Constitution, and the Court has jurisdiction under 28 U.S.C. § 1367 to hear an action to redress a deprivation of rights guaranteed by the laws and

the Constitution of the State of Georgia.

10.

Attorney's fees are authorized by 42 U.S.C. § 1988.

11.

This complaint, which does not assert any damages claims under Georgia law, is intended to serve as the ante litem notice to Cobb County as contemplated by O.C.G.A. § 36-11-1.

FACTS

Gloria Allred

12.

Allred is a nationally-renowned attorney. Her law firm, Allred, Maroko & Goldberg, represents people who have been discriminated against on account of their sex, race, age, physical handicap, or sexual orientation. Her firm also represents victims of AIDS discrimination, sexual harassment, and wrongful termination. AM&G is well-known for its work on behalf of victims in civil rights, rape, child sexual abuse and murder cases. Just last year, Allred received a Lifetime Achievement Award from The National Trial Lawyers, an invitation-only organization of America's premier trial lawyers who have demonstrated superior leadership, reputation, influence, and stature in their legal community.

13.

Over the course of her near-40 year legal career, Allred has won countless honors for her pioneering legal work on behalf of women's rights and rights for minorities. For example, Allred won the President's award from the National Association of Women Lawyers and the President's Award for Outstanding Volunteerism, presented to her by President Ronald Reagan at the White House. She is a three-time Emmy nominee for her commentaries on KABC television in Los Angeles. Her nationally syndicated television show "We the People, with Gloria Allred" was also nominated in 2012 for a Daytime Emmy Award. And TIME Magazine called her "one of the nation's most effective advocates of family rights and feminist causes."

14.

Allred represents a number of women who allege that they were sexually abused by Bill Cosby. This current controversy surrounding Mr. Cosby has generated intense media coverage and storming debates about whether a woman who alleges that she has been drugged and raped should speak out, or whether she should instead suffer in silence, if the statute of limitations has run on any claims that she might have been able to assert, either in the criminal or civil justice systems.

The Cobb-Marietta Coliseum
and Exhibit Hall Authority

15.

The Cobb-Marietta Coliseum and Exhibit Hall Authority ("the Authority") was created by Georgia's legislature in 1980. See Ga. Laws 1980, Act No. 1222, p. 4091 (March 16, 1980).

16.

Section 2 of the Act, as amended in 1981, provides:
"[t]here is hereby created a body corporate and politic to be known as the Cobb-Marietta Coliseum and Exhibit Hall Authority, and which shall be deemed to be a political subdivision of the State of Georgia and a public corporation and by that name, style and title said body may contract and be contracted with, sue and be sued, implead and be impleaded, complain and defend in all courts of law and equity." Ga. Laws 1981, Act No. 667, p. 4350.

17.

The Act further provides that the Authority's general purpose is:

Acquiring, constructing, equipping, maintaining and operating one or more projects consisting of multi-use coliseum and civic center type facilities to be used for athletic contests, games, meetings, trade fairs, expositions, political conventions, agricultural events, theatrical and musical performances, conventions and other public entertainments....

Ga. Laws 1981, Act No. 667, p. 4351, § 1.

18.

The Act provides that the Authority shall consist of seven members with three members to be chosen by the Board of Commissioners of Cobb County, three members to be chosen by the City Council of the City of Marietta, and the seventh member to be elected by majority vote of the first six members. See Ga. Laws 1980, Act No. 1222, p. 4093, § 3.

19.

The process by which members are appointed has been altered by subsequent amendments, but membership continues to be limited to individuals who either are appointed by the Board of Commissioners of Cobb County, or hold elected office or other positions with the county or municipalities located in Cobb County, or are elected by majority vote of the existing members.

20.

The Authority is registered with Georgia's Department of Community Affairs under O.C.G.A. § 36-80-16 as a "local authority."

Cobb Energy Performing Arts Centre

21.

The Authority owns and operates the Cobb Energy Performing Arts Centre ("the Centre") which includes the

"John A. Williams Theatre." The Centre promotes its 2,750-seat theatre as a "world-class, state-of-the-art performance venue." In addition to offering ticketed performances to the general public, the Centre leases its facilities (including the theatre) for private events (e.g., corporate banquets and weddings).

22.

The Centre (and its theatre) is public property. See 1980 Ga. Laws (Act No. 1222), p. 4091, § 4; see also Code of Ordinances of Cobb County, § 2-185.

23.

It is the responsibility of the Centre's management "to operate the facility in a sound business manner." The Centre's booking policy attempts to "maximize the economic impact to the region and maintain financial stability of the facility."

24.

The Centre selects and books its own performances. The Centre's Managing Director has discretion to issue, modify or terminate booking commitments subject to certain priorities.

25.

Priority One. Under the Centre's "Theatre Booking Policies," the first priority for the scheduling of dates

and space will be available "to national or regional touring productions that contract to present week long runs or a series of productions that consist of a minimum of six shows weekly and generate significant attendance from regional and the Atlanta metropolitan area. (Examples: Professional National Touring Broadway Series - LION KING, Professional National Touring Children's shows - DORA THE EXPLORER.)."

26.

Other 'priority one' productions include "touring national comedy and concert artists that are produced, co-promoted, or presented by CEPAC, special educational performances, such as ArtBridge and the Shuler Hensley Awards for Excellence in High School Musicals and corporate meetings that are deemed appropriate to the overall sales objectives. Priority One status is also given to mission focused community engagement productions of CEPAC that are of equal scheduling priority at the discretion of the Managing Director. (Examples: Co-promoted shows where CEPAC can make a larger profit by taking some of the promotion risk with a professional tour such as a Christmas production - RADIO CITY or educational/children's shows - SESAME STREET.)."

27.

Priority Two. This class of priority is "available to

productions that contract to present week long runs that consist of a minimum of four performances with at least four separate productions annually. (Example: Professional Resident company - OPERA OR BALLET with multiple performances in a week)."

28.

Priority Three. This class of priority is "available to productions that contract to present a minimum of four performances of a single event OR productions that contract to present a minimum of one performance of at least four separate events in one year. (Example: Local professional company - COMMUNITY THEATRE, BALLET, series of one-night performances - COMEDY OR LECTURE SERIES)."

29.

If alternative dates are offered to accommodate a 'first priority' production, the Centre will "give preference to annual public shows with a proven record of success and significant impact to the community over other second priority scheduling commitments."

Cobb County's Role in Operating the Centre

30.

Cobb County actively participates in the operation of the Centre. For example, Cobb County staffs police officers

in the facility to provide security for public performances. It also staffs police officers just outside the facility (on public performance days) to direct traffic.

31.

When it comes to ticketed public performances and events, as the allegations below make clear, the Centre relies on Cobb County's police department to investigate, plan and implement all security for the Centre.

The Centre Books the Cosby Performance

32.

On April 16, 2015, the Centre entered into a "Facilities Lease Agreement" ("the Agreement") with Outback Concerts of Tennessee, Inc., for an event described as 'Bill Cosby' to occur on May 2, 2015 ("the Cosby Performance").

33.

Under the Agreement, admission into the Cosby Performance would be by ticket only. Agreement, ¶ 5.a. The Authority, through the Centre, controls "the sale of tickets through its exclusive ticket vendor, TicketMaster." Agreement, ¶ 5.b. Any member of the general public holding a ticket from TicketMaster for the Cosby Performance could attend the show.

34.

All printed copy to appear on tickets for the Cosby

Performance had to be submitted to the Authority for approval before printing. Agreement, ¶ 5.g. And all advertising, promotional and publicity copy concerning ticket sales for the performance was subject to approval by the Centre. Agreement, ¶ 5.h. (referencing ticketing addendum).

35.

The Authority reserved the right to approve all advertising material with respect to the Cosby Performance. Agreement, ¶ 6.a.

36.

The Authority also reserved the right to remove "or cause to be ejected from the Premises any person engaging in dangerous, unsafe or illegal conduct...." Agreement, ¶ 7.a.4.

37.

Under the Agreement, the Authority managed and controlled "staffing of the box office, doormen, ushers, ticket takers, supervisors and security guards, [and] watchmen...." Agreement, ¶ 7.b.1.

Cobb County's Investigation of the Protestors

38.

On April 16, Debbie Meister, acting on behalf of Bill Cosby, sent an email to the Managing Director (Taormina)

thanking him for the conference call of April 15, and requesting a call with John McMahon (Managing Director for Celebrity Protection and Logistics, located in New York), Larry Green (Director of Safety and Security for the Centre), and Major Bolenbaugh (Cobb County Police Department). Taormina responded and copied McMahon, Green, Jenny Pollock (Director of Facility Operations for the Centre), and Phillip Johnson (Public Safety Manager for the Centre).

39.

Later that day, Meister sent an email to Green explaining that she wanted to "share social media information on the agitators with the appropriate person on the Major's team." Green then sent an email to Major Bolenbaugh asking him to call Meister to speak with her.

40.

On April 16 at about 4:30 p.m., Danielle Walker, who was a Crime and Intelligence Analyst with the County's police department, sent Johnson and Major Bolenbaugh an email with the subject "Names of Protest Attendees," which listed 22 people.

41.

On April 17, Meister sent an email to Walker which included social media critical of Bill Cosby and the current

controversy surrounding him. On the same day, Meister sent an email to Walker a link to a FaceBook page entitled "Stop Harassment and Abuse Now." Walker thanked Meister for her emails and assured Meister that she would contact her over the weekend if she saw "anything crazy" on the social media.

42.

On April 20, Meister sent an email to the Managing Director and copied key Centre officials, including, Green, Johnson and Pollock, with updated advance sheets and rider requirements for the Cosby Performance.

43.

The next morning, Green forwarded Meister's email to the Cobb County Police Department's Chief of Police, John R. Houser. (Chief Houser is the final decisionmaker and policymaker for Cobb County on law enforcement matters.) Chief Houser forwarded that email to the "Event Supervisor" of the Cosby Performance, Major Bolenbaugh.

44.

On April 22, McMahon sent an email to Green asking about the "status of permits issued to protestors" of the Cosby Performance. Green forwarded that email to Major Bolenbaugh, who responded that protest permits were not necessary, adding that one of the protest groups who had contacted the County's police department to ask about

protest permits was told that they were unnecessary.

45.

The Centre assigned 12 "posts" for the Cosby Performance to be staffed by Cobb County police officers. Among the "pre-show" posts were the "front doors," "traffic," and "protestors." Among the "show time" posts were "protestors" and "grand lobby doors."

Gloria Allred and the Protestors

46.

By May 2, 2015, the Cobb County Police Department had developed a "security watch list" for the Cosby Performance. Among those names appearing on that list was Gloria Allred and at least one of her clients. In total, almost 70 names appeared on this list.

47.

The security watch list included a color photograph of each person, with the exceptions of Allred and one other listed person.

Allred is Denied Entry to the Cosby Performance

48.

Allred held a lawfully-acquired ticket to the Cosby Performance.

49.

Allred went to the Centre on May 2, 2015. When she

arrived, people were protesting in a peaceful manner outside the Centre. Among those protesting the Cosby Performance was one of Allred's clients who alleges that she was a sexual-abuse victim of Bill Cosby.

50.

Allred intended to view the Cosby Performance in part to gain insight that would help her represent her clients; she did not intend to disrupt the performance, nor did she intend to encourage others to do so.

51.

As the starting time of the Cosby Performance approached, Allred, with her ticket in hand, went to the Centre's entrance. There Allred presented her ticket. An official acting on behalf of the Centre informed Allred that, because her name was on "the list," she could not enter, and the official directed Allred to an entrance several yards away.

52.

Allred followed these instructions and attempted to enter the Centre through the designated doors. Immediately upon entering, though, Allred was met by two uniformed Cobb County police officers, including Officer P.M. Stoddard.

53.

Officer Stoddard told Allred that she would not be

allowed to enter the Centre to watch the Cosby Performance; Allred had no idea that the Authority and the County planned to prohibit her from viewing the Cosby Performance.

54.

When Allred asked why she could not enter, Officer Stoddard explained that he had a "list," which was compiled by 'Outback Productions' or Bill Cosby representatives, of protestors who should not be allowed to view the Cosby Performance, and that Allred's name appeared on the list.

55.

Allred explained that she did not plan to protest or disrupt the Cosby Performance and that she had a ticket for entry, but Officer Stoddard explained that those facts did not matter. The security watch list was, in effect, a 'do not admit for entry' list.

56.

After Officer Stoddard explained to Allred that she was not permitted to enter the Centre that night, he instructed her to exit "the property" and that, if she refused to exit the property, she would be considered a "criminal trespass" and subject to arrest. At no point was Allred provided with notice or an opportunity to be heard before being placed on the Centre's 'do not admit for entry' list.

57.

When Allred asked whether any of the protestors outside who had a valid ticket could enter the Centre and view the Cosby Performance, Officer Stoddard explained that, even if someone had a ticket to the performance, if they were on the list, they (a) would be denied entry, and, (b) if they refused to leave, the Cobb County police department would treat them as trespassers.

58.

Allred obeyed Officer Stoddard's instructions and left the Centre's property; she was unable to watch the Cosby Performance.

59.

Officer Stoddard audio-recorded his exchange with Allred. He also recorded an exchange with another ticket holder (whose name appeared on the security watch list); Stoddard did not allow this person to enter the facility to view the Cosby Performance, either. These recordings, along with the security watch list, were turned over to the Cobb County police department's evidence unit.

60.

As for the outside protestors, there were no issues before the show. The protestors stayed on the sidewalk until show time and then dispersed.

61.

In addition to Allred, other people whose names appeared on the County's 'security watch list' were denied entry to the Cosby Performance by the County's police officers, even though they held valid tickets to attend the performance.

62.

Apart from a couple of hecklers who stood up once the show started to speak their mind (who were escorted out by public safety immediately), Bill Cosby's stand-up performance "went off without a hitch." See MOD Report.

General Allegations

63.

The Authority and Cobb County have together created a policy or custom of allowing the County's police department to decide who may enter the Centre (to view a performance) based on the attendee's viewpoint. If, for example, the police believe that a person's viewpoint is not shared by a public performer, the police can choose not to allow that person into the Centre. Neither the County nor the Authority have any objective standards governing how and when it may prohibit a person from entering the Centre.

64.

The Authority and Cobb County have together created a

policy or custom of delegating to a performer control over the County's police officers, such that the performer can direct the police officers to prohibit people from attending the public performance based on whether would-be attendees disagree with the performer's message, i.e., the Centre engages in viewpoint discrimination.

65.

These content-based policies (¶¶ 63 & 64), as a practical matter, result in quick and unforeseeable censorship of the would-be attendee to the Centre's performances. Here, for example, Allred had no idea that when she presented her ticket at the Centre's entrance, she would be denied entry based on her status or viewpoint. In future performances or events open to the general public, for instance, a 'gun control advocate' might be denied entry to a gun show. Or a PETA protestor might be denied entry to an agricultural fair. The fleeting and unique nature of each viewpoint skirmish makes the government's policy one that is capable of repetition yet evading review.

66.

Allred seeks declaratory and injunctive relief from the defendants' overbroad policies on behalf of herself and all others who will attend performances at the Centre who do not wish to be subjected to viewpoint censorship.

67.

Allred plans to attend other performances at the Centre, but she does not want to be investigated by the Authority or the County for her viewpoints or her social status as a litmus test for gaining entry to the Centre; she has no adequate remedy at law.

68.

The defendants have acted, and are acting, in full knowledge that their actions are oppressive and without authority of law.

COUNT 1

42 U.S.C. § 1983: FREE SPEECH CLAUSE VIOLATIONS

(All Defendants)

69.

Allred realleges each fact set forth in paragraphs 1 through 68 of this complaint and incorporates them here by reference.

70.

The actions of the defendants have deprived Allred of rights and liberty interests protected by the Free Speech Clause of the First and Fourteenth Amendments to the United States Constitution, in that, inter alia:

- (a) the defendants' policies and customs described above fail to serve or further a compelling or

substantial governmental interest, are not unrelated to the censorship of protected speech and expression, and are not narrowly tailored to avoid unlawful infringement of speech or expression;

- (b) the defendants engaged in content-based and even viewpoint-based discrimination when they placed Allred on the Centre's 'do not admit for entry' list, and then prohibited her from attending the Cosby Performance, and that effort as applied to Allred failed to serve a compelling or substantial governmental interest, was not unrelated to the censorship of protected speech and expression, and was not narrowly tailored to avoid unlawful infringement of speech or expression;
- (c) the defendants' policies or customs described above amount to an unlawful delegation of governmental authority to private entities (e.g., musical performers, stand-up comedians) by allowing private persons to use police officers to control who may or may not view performances at the Centre; and
- (d) the defendants' policies or customs described above sweep substantially more protected speech or

conduct within their ambit than is necessary, thus chilling the exercise of rights protected by the Free Speech Clause and rendering these policies unconstitutionally overbroad.

COUNT 2

42 U.S.C. § 1983: DUE PROCESS CLAUSE VIOLATIONS

(All Defendants)

71.

Allred realleges each fact set forth in paragraphs 1 through 68 of this complaint and incorporates them here by reference.

72.

The actions of the defendants have deprived Allred of property rights and liberty interests protected by the Due Process Clause of the Fourteenth Amendment to the United States Constitution, in that, inter alia:

- (a) the defendants' policies or customs described above amount to an unlawful delegation of governmental authority to private entities (e.g., musical performers, stand-up comedians) by allowing private persons to use the County's on-duty police officers to control who may or may not view performances at the Centre; and
- (b) as a citizen holding a ticket for the Cosby

Performance, Allred had a liberty interest to enter and remain in the Centre to view the performance; because Allred had not committed a crime or violated any regulation (nor had she threatened to do so), the defendants violated her procedural due process rights when they banned her from the Centre without first affording her notice or a meaningful opportunity to be heard.

WHEREFORE, Allred prays:

- (a) That as to Counts 1 and 2, the Court grant Allred declaratory and permanent injunctive relief, prohibiting the defendants (through their agents, officials, and employees) from continuing their censorship policy on admissions to performances and events in the Centre;
- (b) That as to Counts 1 and 2, the Court award Allred damages (for 'specials' only, such as reimbursement of money spent on her airline ticket and hotel, in hopes of viewing the Cosby Performance) against Defendant Cobb County, Georgia, and Defendant Cobb-Marietta Coliseum and Exhibit Hall Authority for violating her federal constitutional rights;

- (c) That Allred be awarded her reasonable attorney's fees and costs incurred in bringing this action; and
- (d) That Allred be granted such other and further relief as the Court deems just and proper.

Respectfully submitted,

WIGGINS LAW GROUP

BY: /s/ Cary S. Wiggins
Cary S. Wiggins
Ga. Bar No. 757657

Suite 401
260 Peachtree Street, NW
Atlanta, GA 30303
Telephone: (404) 659-2880
Facsimile: (404) 659-3274
cary@wigginslawgroup.com