

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

FRANK A. GIGLIO)

Plaintiff,)

v.)

CITY OF CLEVELAND, OHIO)

Defendant)

1:00 CV 2234
Civil Action No. _____

JUDGE O'MALLEY
JUDGE _____

MAG. JUDGE VECCHIARELLI

COMPLAINT FOR DECLARATORY RELIEF, INJUNCTIVE RELIEF,
AND DAMAGES

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I. INTRODUCTION

1. This is a civil action for declaratory relief, injunctive relief and damages that arose from the unconstitutional policies and practice, and/or custom of the City of Cleveland which resulted in the trespass, takings and destruction of real and personal property of a citizen of the United States of America and the assault and injury of that citizen and life that lived on his property and in his ecosystem by the City of Cleveland.

II. JURISDICTION, VENUE AND PARTIES

A. Jurisdiction

2. Plaintiff brings this action to protect rights conferred by the First, Fourth, Fifth, Sixth, Seventh, Eleventh and Fourteenth Amendments to the United States Constitution.
3. This court has jurisdiction under 28 U.S.C. § 1331 in that it arises under the Constitution of the United States, under 28 U. S. C. § 1343 (2) (3), in that it is brought to redress deprivations, and takings of rights, privileges, and property and immunities secured by the United States Constitution; under 28 U.S.C. § 1343 (a) (4), in that its purpose is to secure damages and equitable relief under Acts of Congress - specifically, 42 U.S.C. § 1983 - providing for the protection of civil rights under 28 U.S.C. § 2201 (a), in that one of its purposes is to secure declaratory relief; and finally, as to our claims under the Constitution, under the doctrine of prudent jurisdiction.

B. Venue

4. Venue is proper in this court under 28 U.S.C. § 1391 (b) because the plaintiff resides in this district and because claims and action arose on the property on which he resides and which he owns.

C. Parties

5. Plaintiff - Frank A. Giglio who lives at 2288 West 14th Street, Cleveland, Ohio
6. Defendant - City of Cleveland, Cuyahoga County, State of Ohio

III. FACTS

A. Frank Giglio

On September 1st of 1998 officials and agents of the City of Cleveland in the county of Cuyahoga in the state of Ohio entered and/or trespassed onto the property at 2280-88 West 14th Street, Cleveland, Ohio and began without service to cut trees with a chain saw on the lot of 2280 West 14th Street. A large front end loader was used to tear the fence down in the front and side lots. This action caused a threat of life to a German Shepherd dog chained in the yard. After pleading with police and city workers and officials to produce a court order for this capricious action Mr. Giglio was handed a piece of paper, not a court order but an arbitrary piece of paper claiming that the property was an immediate health risk of some sort and a breeding ground for rats and skunks. Mr. Giglio was maced in the face after refusing to move my 1977 Suburban which was sitting in his driveway. Mr. Giglio's German Shepherd was also sprayed in the eyes by Sergeant. Bolin of the 2nd District Police Department. Mr. Giglio and his German Shepherd then ran in the house. The door was broken down and Mr. Giglio was thrown down and handcuffed and assaulted. Mr. Giglio was incarcerated as well as his dog.

Mr. Giglio had appeared in Housing Court previous to this and had pleaded innocent to the charges on this case. A trial date was set for the middle of September. The city never told Mr. Giglio or his lawyer that there was any immediate threat as a result of the violations. They decided to deny Mr. Giglio of due process as guaranteed in the U. S. Constitution and as a result of the preemptive violation of Mr. Giglio's rights caused injury to Mr. Giglio, his dog, and his property. His property had neither rats nor skunks living on it or visiting, or breeding. The property was completely destroyed- trees, shrubs, plants, the top layers of soil, walkways, driveways and all property on it, which included a 1973 Volkswagen Super Beetle which was licensed in the state of Ohio.

B. The City's Unconstitutional Policy, Practice, and/or Custom

7. Defendant City of Cleveland is pursuing policy, practice, and/or custom whose aim is to selectively prosecute and harass homeowners in selective areas or neighborhoods of the city. The City of Cleveland is also pursuing policy of taking or destroying real or personal property of citizens of Cleveland. The city is pursuing policy, practice, and/or custom of denial of religious rights and property rights. To this end the City is using police, city workers and officials, development corporations and council people.

IV. CLAIMS FOR RELIEF

(Section 1983 Claim for Deprivations of Federal
Constitutional Rights)

8. In carrying out the aforementioned policy, practice, and/or custom, the City has violated, and threatens to continue violating, the right of the Plaintiff Mr. Giglio to be free from unreasonable seizures and trespass, as guaranteed by the Fourth and Fourteenth Amendments to the U.S. Constitution; freedom from unconstitutional takings by a governmental body as provided in the Fifth Amendment; right to religious freedom as provided for in the First Amendment vouchsafed by the liberty guarantee of the Fourteenth Amendment; his right to a trial or trial by jury as guaranteed by the First and Fourteenth Amendments; and his right to be free from the unfettered discretion of law enforcement officers and city workers, officials and their agents, as guaranteed by the Due Process Clause of the Fourteenth Amendment.

a. Plaintiff ask for \$1,000,000 dollars in damages
from City of CLEVELAND, OHIO

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands that judgment be entered against the Defendant City of Cleveland. Specifically, Plaintiff demands such declaratory, injunctive, and other relief as follows:

- (a) A declaratory judgment that the City's aforementioned policy, practice, and/or custom violates Plaintiff's rights

under the First, Fourth, Fifth, Eleventh, and Fourteenth Amendments to the U.S. Constitution.

- (b) Preliminary and permanent injunctions ordering the City - and all officers, employees, and agents under its supervision or control - to cease carrying out the aforementioned policy, practice, and/or custom.

- (c) An award of compensatory and punitive damages to the Plaintiff Frank A. Giglio for the physical, psychological, and emotional distress, pain, and injury and loss and destruction of real property and property and ecosystem as highlighted in the takings act of the Fifth Amendment of the U.S. Constitution he has suffered at the hands of police officers carrying out the aforementioned policy, practice, and/or custom.

- (d) An award of attorney fees, pursuant to 42 U.S.C. § 1988, and costs.

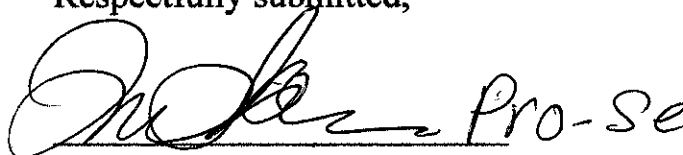
- (e) An order granting the Plaintiff such other and further relief as this Court deems proper.

VI. DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

(The U.S. Constitution provides for additional consideration when the case is being handled pro-se.)

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Frank A. Giglio", is written over a horizontal line. To the right of the signature, the words "Pro-Se" are written in a cursive, handwritten style.

FRANK A. GIGLIO

Pro-se Counsel

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