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Our File #F-2358  
Attorney for the Plaintiff

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

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DON KARNAS :  
:   
Plaintiff, :  
: CIVIL CASE NO. 14-4104 (MLC)  
vs. :  
:   
KATHLEEN SHANAHAN, SANDRA : AMENDED COMPLAINT WITH JURY  
MCKEON CROWE, NEW JERSEY : DEMAND  
TRANSIT AND JOHN DOE :  
SUPERVISORS #1 TO 50. :  
:   
Defendants. :

Don Karnas by way of complaint against the defendants says:

**PARTIES, JURISDICTION, AND VENUE**

1. The plaintiff, Don Karnas, is an individual who resides at 18 Holloway Drive, Hampton Virginia.

2. The defendant, Kathleen Shanahan, is an individual who at all times relevant to this matter was employed as a police officer by the defendant, New Jersey Transit.

3. The defendant, Sandra McKeon Crowe, is an individual who at all times relevant to this matter was employed as a police officer by the defendant, New Jersey Transit.

4. The defendant, New Jersey Transit, is an independent governmental entity, created under the laws of the State of New Jersey, that operates certain transit facilities within and without the State of New Jersey.

5. Defendant, John Doe Supervisors #1 to 50, are individuals who constitute the chain of command from the officers named above to and including the final official with decision making authority.

6. All of the foregoing individual defendants are sued in both their individual and official capacities.

7. This suit arises under the United States Constitution and the laws of the United States and is brought pursuant to 42 U.S.C. §1983 based upon violations of the plaintiff's rights under the First, Fourth, and Fourteenth Amendments.

8. The Court has jurisdiction over plaintiff's federal claims pursuant to 28 U.S.C. §1331, as an action arising under the Constitution of the United States, and 28 U.S.C. §1343(A)(3), to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States.

9. The Court also has authority to grant declaratory and injunctive relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §2201 et seq.

10. Venue is properly laid pursuant to 28 U.S.C. §1391(b) in the District of New Jersey, because defendant, New Jersey Transit is located in this district, and the events giving rise to the claim occurred in this district.

**FACTUAL ALLEGATIONS**

11. Don Karns is an evangelical minister who regularly preaches the Christian Gospel in public forums such as public sidewalks, public parks and other public places.

12. On June 26, 2012, Don Karns along with another preacher, Robert Parker, was preaching the word of God at the West Windsor Station owned and operated by New Jersey Transit.

13. The station and its train platforms are at all times open to the public and as of June 26, 2012, there were no notices posted that would have warned Don Karns or Robert Parker that their preaching was impermissible or that such conduct was not in conformance with lawful conditions placed upon the property by New Jersey Transit.

14. On the aforesaid date as a result of their preaching Robert Parker and Don Karns were arrested without probable cause by the defendants Kathleen Shanahan and Sandra McKeon Crowe.

15. Said arrests prevented the Robert Parker and Don Karns from continuing the exercise of the rights to free speech and included physical seizures and searches of their persons,

transportation to a police facility, and detention in holding cells.

16. Thereafter Don Karns was charged by defendant, Sandra McKeon Crowe, without probable cause with violations of N.J.S. 2C:18-3B (Defiant Trespass), N.J.S. 2C:29-1A (Obstruction of Justice), and N.J.S. 2C:29-1B (Prevention of a Public Servant From Performing an Official Function, a Crime of the 4<sup>th</sup> Degree).

17. The filing and prosecution of the aforesaid charges were all approved and ratified by Defendant, John Doe Supervisors #1 to 50.

18. Subsequently the Fourth Degree Charges were downgraded by the Mercer County Prosecutor's Office and the matters tried before the West Windsor Municipal Court.

19. At the conclusion of these proceedings all charges were dismissed as to Don Karns.

20. At the aforesaid times and continuing to the present, New Jersey Transit has had an obscure regulation, that it has not published or disseminated on a broad basis to the public, requiring persons who wish to engage in non-commercial speech on its premises to obtain a permit.

21. Furthermore any persons who became aware of this regulation and actually request an application for a permit are never sent one, and therefore in practice this scheme is not a content neutral time place and manner regulation.

22. In addition in practice New Jersey Transit officials have only enforced its permit scheme when its officials have encountered speech they find subjectively objectionable.

23. In fact, but for the religious nature of the speech of Robert Parker and Don Karns, they would have never even been approached by the defendants on the day in question.

24. In addition in order to deprive citizens such as the Robert Parker and Don Karns of their right to record the public activities of their police officers, officials of New Jersey Transit have instructed their officers to prevent such recordings by always claiming that the person recording maybe a terrorist who is potentially using his recording device to set off a bomb.

25. In fact on the day in questions the Robert Parker and Don Karns were charged with offenses in part because they attempted to record the actions of the officers.

26. As a result of the aforesaid actions of the defendants, the plaintiff Don Karns sustained pecuniary losses in the form of costs associated with his defense including attorney's fees, lost earnings as a result of time lost from his usual occupational endeavors in order to appear in court and personal travel expenses.

27. As a result of the aforesaid actions of the defendants the Don Karns sustained non-pecuniary losses in the form of emotional distress including emotional pain, suffering,

inconvenience, mental anguish, loss of enjoyment of life and such other non-pecuniary losses as maybe disclosed in discovery.

28. All of the aforesaid actions of the defendants were performed willfully and intentionally for the purpose of depriving the Don Karns of his civil rights.

**FIRST COUNT**  
**(First Amendment Violation)**

29. On account of the religious content of their speech Robert Parker and Don Karns were arrested without probably cause and prevented from engaging in further communication with the public.

30. On account of Robert Parker and Don Karns having protested the violation of their First Amendment rights to the investigating officers they were arrested without probably cause and prevented from engaging in further communication with the public.

31. On account of Robert Parker and Don Karns having attempted to create a record by recording the actions of the investigating officers, which record the plaintiffs could have communicated to other persons, they were arrested without probably cause and prevented from engaging in further communication with the public.

32. As reasonable public officials the investigating officers should have known that their actions would infringe upon the

clearly established rights of Robert Parker and Don Karns under the First Amendment.

33. The aforesaid policies and actions of New Jersey Transit to create an illusory constitutionally permissible permit scheme and a policy that would prevent the recording of public actions of police officers deprived Robert Parker and Don Karns of their First Amendment rights pursuant to a custom and practice that was the equivalent of an official policy or law.

34. As a proximate result of the aforesaid actions of the defendants, the plaintiff, Don Karns, have sustained the pecuniary and non-pecuniary damages previously set forth.

35. Pursuant to 42 U.S.C. §1988 the Don Karns is entitled to attorney's fees and costs in connection with the claims set forth in this count.

Wherefore, plaintiff, Don Karns, demands judgement against defendants Kathleen Shanahan, Sandra McKeon Crowe and New Jersey Transit for:

- a. Compensatory damages;
- b. Nominal damages in the event no compensatory damages are allowed;
- c. Punitive damages against the individual defendants;
- d. Costs of the action;
- e. Reasonable attorney's fees and costs;

- f. Injunctive relief enjoining New Jersey Transit from continuing the practices set forth and,
- g. Such other and further relief as this Court may deem appropriate and just.

**SECOND COUNT**  
**(Fourth and Fourteenth Amendments)**

36. The aforesaid actions of defendants, Kathleen Shanahan and Sandra McKeon Crowe in arresting and charging Don Karns without probable cause constituted an unreasonable search and seizure in violation of the Fourth Amendment.

37. The aforesaid actions of defendants, John Doe Supervisors #1 to 50 and New Jersey Transit in ratifying the arrest and permitting a malicious prosecution to go forward constituted a violation of Don Karns' rights secured by the Fourth and Fourteenth Amendments.

38. As a proximate result of the aforesaid actions of the defendants, Don Karns has sustained the pecuniary and non-pecuniary damages previously set forth.

39. Pursuant to 42 U.S.C. §1988 Don Karns is entitled to attorney's fees and costs in connection with the claims set forth in this count.

Wherefore, plaintiffs, demand judgement against the defendants for:

- a. Compensatory damages;



- b. Nominal damages in the event no compensatory damages are allowed;
- c. Punitive damages against the individual defendants;
- d. Costs of the action;
- e. Reasonable attorney's fees and costs;
- f. Injunctive relief enjoining New Jersey Transit from continuing the practices set forth and,
- g. Such other and further relief as this Court may deem appropriate and just.

**F. MICHAEL DAILY, JR., LLC  
ATTORNEY FOR THE PLAINTIFFS**

s/F. Michael Daily, JR.  
**BY: \_\_\_\_\_  
F. MICHAEL DAILY, JR.**

Dated: July 14, 2014

**JURY DEMAND**

The plaintiff demands a trial by jury as to all issues.

**F. MICHAEL DAILY, JR., LLC  
ATTORNEY FOR THE PLAINTIFF**

s/F. Michael Daily, Jr.  
**BY: \_\_\_\_\_  
F. MICHAEL DAILY, JR.**

Dated: July 14, 2014.