

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
NORTHERN DIVISION

PATRICK BRAXTON, JAMES
BALLARD, BARBARA PATRICK,
JANICE QUARLES, and WANDA
SCOTT,

Plaintiffs,

v.

HAYWOOD STOKES III, GARY
BROUSSARD, JESSE DONALD
LEVERETT, VONCILLE BROWN
THOMAS, LYNN THIEBE, WILLIE
RICHARD TUCKER, and PEOPLE'S
BANK OF GREENSBORO,

Defendants.

*
*
*
*
*
*
*
*
*
*
*
*
*
*
*

2:23-cv-00127-KD-N

**DEFENDANTS' HAYWOOD STOKES III, GARY BROUSSARD, JESSE DONALD
LEVERETT, VONCILLE BROWN THOMAS, AND WILLIE RICHARD TUCKER
NOTICE OF REMOVAL**

COME NOW Defendants Haywood Stokes III, Gary Broussard, Jesse Donald Leverett, Voncille Brown Thomas, and Willie Richard Tucker and hereby file this notice of removal seeking to remove the above-styled case from the Circuit Court of Dallas County, Alabama, being civil action number 27-CV-2022-900217, to the United States District Court for the Southern District of Alabama, Northern Division, pursuant to 28 U.S.C. §1441, et seq. In support of their notice of removal, the above Defendants state the following:

1. On November 21, 2022, Plaintiff Patrick Braxton filed this lawsuit against Defendants Haywood Stokes III, Jesse Leverett, Voncille Thomas, Willie Tucker, and People's Bank of Greensboro, as well as former Defendants John Swanson and "Does 1 to 10," the original Complaint being attached hereto as "Exhibit A."

2. On or about November 21, 2022, Plaintiff Patrick Braxton completed and filed a federal “Civil Cover Sheet” and “Complaint for Violation of Civil Rights (Non-Prisoner Complaint)” with the Circuit Court of Dallas County. (Exhibit A). The cover sheet attached to the Complaint contains a mark by “Federal Question” as the basis of jurisdiction, cites 42 U.S.C. §§ 1983 and 1985 as the cause of action of the lawsuit, and asserts that “Defendants conspired to deny incoming Mayor civil rights and Town position due to race.” (Exhibit A). The Complaint itself explicitly alleges constitutional violations by State or local officials and states that it is brought pursuant to 42 U.S.C. §§1983 and 1985 and 52 U.S.C. §10301. (Exhibit A).
3. Along with the Complaint, Plaintiff Patrick Braxton filed a supporting document titled “ATTACHMENT II(D) ACTS UNDER COLOR OF MUNICIPAL LAW,” attached hereto as “Exhibit B.” The supporting document contains more detailed allegations by the Plaintiff against the Defendants. (Exhibit B). Specifically, Plaintiff alleges that Haywood Stokes III, acting as the Mayor of the Town of Newbern, conspired with various Newbern Town Council members and the local Bank Chairman, Fire Department Chief, and Postal Director “to block Plaintiff from assuming his official position as mayor of Newbern based solely on each Defendants’ intent to discriminate against Plaintiff for being African American. By doing so, Defendants have denied Plaintiff his Constitutional rights.” (Exhibit B). Plaintiff further alleges that “each Defendant has acted under the ordinances, resolutions, and Newbern governing customs in order to deny Plaintiff from assuming his proper position as Mayor of Newbern.” (Exhibit B).
4. Plaintiff Patrick Braxton failed to serve the Defendants with the original Summons and Complaint. (Exhibits C, D, E, F, and G).

5. On March 17, 2023, Plaintiff Patrick Braxton filed his First Amended Complaint, attached hereto as “Exhibit H.” The Amended Complaint names James Ballard, Barbara Patrick, Janice Quarles, and Wanda Scott as additional Plaintiffs; names Gary Broussard and Lynn Thiebe as additional Defendants; and appears to abandon Plaintiff Patrick Braxton’s claims previously asserted against Defendants John Swanson and “Does 1 to 10.” (Exhibit H).
6. Like the original Complaint, the Amended Complaint alleges causes of action presenting a federal question. Specifically, the Amended Complaint alleges constitutional violations and is brought pursuant to 42 U.S.C. §1983, §1985, and §1986. (Exhibit H, Counts I - III). Count I of the Amended Complaint asserts that the Defendants, while acting under the color of law, deprived the Plaintiffs “of their rights to participate in Town governance and to discharge the duties and exercise the privileges of holding office because of their race and in violation of the Equal Protection Guarantee of the Fourteenth Amendment to the Constitution.” Count II of the Amended Complaint asserts that the Defendants conspired “to deprive the Plaintiffs, on account of their race, (i) equal protection of the laws or (ii) equal privileges and immunities of the laws or (iii) preventing or hindering the properly constituted Town council and Mayor of the Town of Newbern from representing the majority black residents of the Town” in violation of “42 U.S.C. Section 1985(3).” Finally, Count III of the Amended Complaint asserts that Defendant Lynn Thiebe, acting as Post Master, and Defendant People’s Bank of Greensboro, acting through its agents, employees, or officers, “negligently failed or refused to prevent Defendant Stokes and the other Individual Defendants from carrying out their conspiracy to deprive Plaintiffs equal protection under the law or of equal privileges and rights of holding office on account of their race,” in violation of 42 U.S.C. §1986.

7. Plaintiff Patrick Braxton is a resident of Hale County, Alabama. (Exhibit H). This lawsuit arises out of Mr. Braxton's allegation that he is the duly elected Mayor of the Town of Newbern, which is a municipality situated in Hale County.
8. Plaintiff James Ballard is a resident of Hale County, Alabama. (Exhibit H). This lawsuit arises out of Mr. Ballard's allegation that he is a Town councilmember of the Town of Newbern, which is a municipality situated in Hale County.
9. Plaintiff Barbara Patrick is a resident of Hale County, Alabama and alleges she is a Newbern Town Council member. (Exhibit H). This lawsuit arises out of Ms. Patrick's allegation that she is a Town councilmember of the Town of Newbern, which is a municipality situated in Hale County.
10. Plaintiff Janice Quarles is a resident of Hale County, Alabama and alleges she is a Newbern Town Council member. (Exhibit H). This lawsuit arises out of Ms. Quarles' allegation that she is a Town councilmember of the Town of Newbern, which is a municipality situated in Hale County.
11. Plaintiff Wanda Scott is a resident of Hale County, Alabama and alleges she is a Newbern Town Council member. (Exhibit H). This lawsuit arises out of Ms. Scott's allegation that she is a Town councilmember of the Town of Newbern, which is a municipality situated in Hale County.
12. Defendant Haywood Stokes III is a resident of Hale County, Alabama. (Exhibit H).
13. Defendant Gary Broussard is a resident of Hale County, Alabama. (Exhibit H).
14. Defendant Jesse Donald Leverett is a resident of Hale County, Alabama. (Exhibit H).
15. Defendant Voncille Brown Thomas is a resident of Hale County, Alabama. (Exhibit H).
16. Defendant Willie Richard Tucker is a resident of Hale County, Alabama. (Exhibit H).

17. Defendant Lynn Thiebe is a resident of Marengo County, Alabama. (Exhibit H).
According to the Amended Complaint, “Ms. Thiebe holds the position of post master and oversees postal services for the City of Newbern.” (Exhibit H).
18. Defendant People’s Bank of Greensboro is a chartered financial institution headquartered in Hale County, Alabama. (Exhibit H).
19. All alleged conduct bringing rise to this lawsuit occurred in Hale County, Alabama. (Exhibit H).
20. The Complaint and Amended Complaint explicitly assert violations of the Fourteenth Amendment to the U.S. Constitution. Accordingly, these claims present a federal question and are proper for removal, pursuant to 28 U.S.C. §1441.
21. Defendants Haywood Stokes III, Gary Broussard, Jesse Donald Leverett, and Voncille Brown Thomas were served with the Complaint on March 21, 2023. Defendant Willie Richard Tucker was served with the Complaint on March 22, 2023. Pursuant to 28 U.S.C. §1446, these Defendants have attached copies of all process and pleadings served to date. These documents are attached hereto as “Exhibit I.”
22. The notice of removal filed in the Circuit Court of Dallas County, Alabama is attached hereto as “Exhibit J.”
23. These Defendants have not filed an Answer to the Complaint or Amended Complaint in the Circuit Court of Dallas County, and have simultaneously filed an Answer to Plaintiffs’ Amended Complaint in this Court with the filing of this notice of removal.
24. Co-Defendants Lynn Thiebe and People’s Bank of Greensboro consent to removal of this case. Documents declaring each co-Defendant’s consent are attached hereto as “Exhibit K.”

WHEREFORE, Defendants Haywood Stokes III, Gary Broussard, Jesse Donald Leverett, Voncille Brown Thomas, and Willie Richard Tucker seek that the removal of this cause to the United States District Court for the Southern District of Alabama, Northern Division be effective, and no further or other proceedings may be had with respect to this matter in the Circuit Court of Dallas County, Alabama, pending a final decision and determination of the controversy in this Honorable Court.

/s/ Rick A. Howard

Rick A. Howard (ASB-9513-W79R)
M. Ashley Tidwell (ASB-3974-O48M)
Attorneys for Haywood Stokes III,
Gary Broussard, Jesse Donald Leverett,
Voncille Brown Thomas, and Willie Richard
Tucker

OF COUNSEL:

Holtsford Gilliland Hitson Howard
Stevens Tuley & Savarese, P.C.
Post Office Box 4128
Montgomery, Alabama 36103-4128
334-215-8585
334-215-7101 (Facsimile)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon:

Richard P. Rouco
George N. Davies
Quinn, Connor, Weaver, Davies & Rouco, LLP
2 North 20th Street, Suite 930
Birmingham, AL 35203

Woodruff R. Jones
Gamble, Gamble, Calame & Jones, LLC
P.O. Box 345
Selma, Alabama 36702

Keith A. Jones
Assistant United States Attorney
63 South Royal Street, Suite 600
Mobile, Alabama 36602

by placing same in the United States Mail, postage prepaid, or through the court's electronic filing service, on this the 17th day of April, 2023.

/s/Rick A. Howard

OF COUNSEL