

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

KEVIN and DONNA RILOTT,)	
ROBERT and JANINE SCHNEIDER,)	
VICKI JOHNSON,)	
GERALDINE McCARVILLE,)	
KEVIN and CHRISTINA ROSE,)	NO. 08 C 50045
DAVE and SUZIE NELSON,)	District Judge Kapala
DR. RITA SULLIVAN,)	Magistrate Judge Mahoney
STEVE GARBE,)	
DANIEL and MARGURRIET)	<u>Jury Demanded</u>
HARRINGTON,)	
)	
Plaintiffs,)	
vs.)	
)	
CITY OF ROCKFORD, ILLINOIS, a)	
municipal corporation, WAYNE)	
WEBSTER, and KEITH A. STERKESON,)	
)	
Defendants.)	

AMENDED COMPLAINT

Plaintiffs, by their undersigned counsel, complain of the defendants as follows:

Nature of the Case

1. This is a civil rights action, pursuant to 42 U.S.C. §1983, by which plaintiffs, private citizens who live and work in the city of Rockford or its environs, sue to prevent, redress and repair the city’s violation of First and Fourteenth Amendment rights stemming from its municipal policy, practice and custom of squelching pro-life speech – that is, speech urging that human beings should choose to protect the lives of all other human beings, even before the moment of birth – when that speech is uttered in the public square and others find it annoying or offensive. Despite the city’s arbitrary, capricious and invidious censorship of the plaintiffs’ pro-life

message, the city has continued to allow and permit expression in the same and in similar fora of different messages and viewpoints.

2. As is more fully hereinafter alleged, the city of Rockford's policy, practice and custom of discriminatory exclusion of plaintiffs' paid pro-life advertisements on a public bus stop bench, on one of Rockford's principal thoroughfares, while allowing other political and even non-political advertisements to be displayed on the same bench, constitutes blatant viewpoint discrimination in violation of the First and Fourteenth Amendments' guarantees of freedom of speech, free exercise of religion, due process of law, and the equal protection of the laws.

3. Also as is more fully alleged below, Rockford enforced its policy, practice and custom – in violation of clearly established law – against plaintiffs, by first defacing and then ordering the formal and final removal of plaintiffs' pro-life advertisements from a public bench. This was reportedly in response to complaints received by the city about the bench's appearance and about the content of its message. But the city's capitulation in the face of complaints from citizens who found a political message annoying or offensive constitutes what has been constitutionally proscribed as a heckler's veto, also in violation of plaintiffs' First and Fourteenth Amendment rights to freedom of speech and free exercise of their religious faith.

4. Further, the city of Rockford's actions in ordering the bus bench owner, Wright Advertising, to remove plaintiffs' paid pro-life advertisement caused Wright to terminate its contract with the plaintiffs – unilaterally and prematurely – causing plaintiffs both a loss of funds and, worse, the lost opportunity to proclaim their pro-life message across the street from one of Rockford's major hospitals where many women in crisis pregnancies were facing the critical choice – indeed, a choice fraught with lifelong consequences – whether to end or save the lives of

their unborn infants.

5. Moreover, plaintiff Rilott sues for himself and third parties to bar the city's threatened enforcement of a nuisance noise ordinance – an ordinance that is facially unconstitutional as it purports to criminalize vocal expression, pristine speech by an unaided human voice not artificially enhanced or amplified, whenever others claim to find it “annoying” or offensive, without any objective measure or standard by which to gauge when it may legally qualify as a public nuisance. Thus that nuisance noise ordinance must be struck down as void for vagueness and an infringement of plaintiff Rilott's – and other potential speakers' – First Amendment and due process rights. But the nuisance noise ordinance is also unconstitutional as the city of Rockford applies and enforces it, inasmuch as the city applies and enforces it exclusively against pro-life speech. Loud rock and roll music blared out over loudspeakers or shouts of threats and invective on the part of the owner of the Rockford abortion provider premises or his neighborhood ally – both of whom are joined as defendants herein – has been ignored by city law enforcement. Only pro-life speakers are threatened with enforcement of the nuisance noise ordinance, on complaints lodged by defendants Keith Sterkeson and/or Wayne Webster, sued as the city's co-conspirators pursuant to 42 U.S.C. §1985(3), while the city casts a blind eye at equally loud, or louder, electronically amplified utterance by Webster or others who oppose the pro-life message.

6. Finally, plaintiff Rilott also sues to redress, repair and prevent the continuing course of conduct by Rockford's law enforcers in failing and/or refusing to protect those engaged in wholly peaceable pro-life witness and protest on the public sidewalk surrounding the Northern Illinois Women's Center, the abortion provider in Rockford. As is more fully hereinafter alleged,

pursuant to its policy, practice and custom of suppressing pro-life speech at or about the site of said abortion provider, the city has repeatedly declined or omitted to investigate, bring criminal charges, or otherwise to protect Rilott and other pro-lifers against actual and threatened assaults and batteries. These torts and crimes have been committed both by defendant Keith Sterkeson, who menaces, assaults and batters pro-lifers at the abortion site by himself and with his dog, and by defendant Wayne Webster, owner of the abortion provider's premises, both of whom are also sued as co-conspirators with the city pursuant to 42 U.S.C. §1985(3). Sterkeson and Webster have wielded a virtual veto over the city's enforcement of its criminal laws to protect the peace, blaming pro-lifers and inevitably causing the Rockford police to ignore their complaints about threatened and actual offenses to their persons and grave perils posed for their safety while in the exercise of their fundamental federal constitutional rights.

Jurisdiction and Venue

7. This Court has jurisdiction over the subject matter of this lawsuit as it arises under the First and Fourteenth Amendment to the U.S. Constitution and under the Civil Rights Act of 1871, 42 U.S.C. §§1983, 1985(3). Thus the Court has original jurisdiction pursuant to 28 U.S.C. §§1331, 1343. Relief by way of a declaration of rights may be provided pursuant to 28 U.S.C. §§2201, 2002. Injunctive relief may be provided pursuant to 28 U.S.C. §1343 and Fed. R. Civ. Pro. 65. Damages may be assessed in favor of plaintiffs pursuant to 28 U.S.C. §1343. Costs including a reasonable attorney's fee may be awarded pursuant to 42 U.S.C. §1988.

8. The Court has jurisdiction over the parties herein as all of them either reside or transact business within the Northern District of Illinois, Western Division. Moreover, venue is properly laid here as all defendants are either incorporated or reside here and all of the acts and

omissions complained of occurred in this District.

The Parties

9. Each of the plaintiffs resides or works in the Rockford metropolitan area. All plaintiffs as well as others contributed funds toward the purchase of the bus bench advertisement from Wright Advertising which the city of Rockford suppressed, as it bore a pro-life message, namely, “Abortion Kills Children,” across the street from Swedish American Hospital in Rockford – a venue at which abortions are performed. All plaintiffs, moreover, are interested in the public proclamation of the pro-life message and in encouraging abortion-bound women to exercise their constitutionally protected “choice” in favor of life.

10. Defendant, city of Rockford, Illinois, is a municipal corporation in the State of Illinois.

11. Defendant, Wayne Webster, is the owner of a large old multi-story brick school building, now occupied by the Northern Illinois Women’s Center, an abortion provider in Rockford. Webster maintains a constant presence at said premises when plaintiffs, or one of more of them, or other pro-lifers are present to protest the taking of human life and to urge prospective mothers to choose life for their infants. He displays and communicates a deep-seated hostility to plaintiffs’ pro-life message by visible signs and symbols at his premises including, among other things, by hanging a dead rubber chicken by a noose in one of his building’s windows; by placing a photo of the late pope, John Paul II, along with a crucifix and chalice and a caricatured nun doll in another window, along with a sign that reads, “Jesus says the clinic stays open”; by hanging a rope strung as a noose from the limb of a tree in the old school courtyard surrounding the abortion clinic premises; and by mocking plaintiffs’ and other pro-lifers’ pro-life advocacy on a loudspeaker that blasts Webster’s oral statements or loud rock and roll music that drowns out pro-

lifers' calls to women to offer help and support for their pregnancies and to urge them to give birth to their children. Webster uses video and still cameras, which are prominently displayed in various windows of his premises, to record the identity and actions of all pro-lifers who may congregate on the sidewalk outside his premises. Among other things, Webster has threatened to call the police to arrest plaintiff Rilott, and other pro-lifers, for violation of Rockford's nuisance noise ordinance.

12. Defendant, Keith Sterkeson, is believed to reside at or about 1309 10th Street, in the city of Rockford, which is down the street from the Northern Illinois Women's Center which occupies the premises owned by defendant Webster. Sterkeson owns a dog and increasingly he has led his dog on a leash to the sidewalk at the abortion provider premises to harass and intimidate, and to commit assaults and batteries, against one or more plaintiffs, including Rilott and other pro-lifers. Sterkeson rails and rants against the pro-lifers and their message and menaces them with his dog. He has made complaints to Rockford police, together with Webster, causing the police to arrest pro-lifers and charge them with violation of the nuisance noise ordinance. On the other hand, when he has committed tortious acts against pro-lifers, Webster has joined with him in denying any criminal or tortious misconduct and the police have failed and refused to bring any charges or otherwise protect pro-lifers against Sterkeson.

COUNT I
(Free Speech - Destruction and Then Suppression
of the Pro-Life Message on the Bus Bench)

13. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 through 12 inclusive with the same force and effect as if fully set forth herein.

14. In October, 2005, the plaintiffs contracted with Wright Advertising ("Wright") to

place a pro-life advertisement on a public bench located on the northeast corner of East State and Summit Streets in Rockford, Illinois.

15. The advertisement was placed on the bench on November 3, 2005, and it displayed the message, "Abortion Kills Children."

16. In March, 2006, the advertisement began to be vandalized on a regular basis in that it was covered with spray-painted obscenities, and the words "Abortion Kills Children" were scraped off.

17. Pursuant to the contract with Wright, plaintiff Kevin Rilott at times repainted the message "Abortion Kills Children," and at times attached pro-life pictures and signs to the bench to cover the obscenity after the bench was vandalized.

18. On March 18, 2006, plaintiff Kevin Rilott observed an employee of the city of Rockford cut a pro-life picture off the bench with a knife.

19. On April 25, 2006, Kevin Rilott discovered that the message "Abortion Kills Children" which had been on the bus bench had been replaced with a different message, namely, "YOUR AD on this bench 963-5550," which was Wright's phone number.

20. On further investigation, Rilott discovered that Wright had received a letter from the city of Rockford, demanding that the bus bench advertisement be removed.

21. The reasons given by Rockford were that the sign was poorly painted (referring to Rilott's attempt to cover the obscene graffiti on the sign), that Rockford had received complaints from other citizens about the content of the message displayed on the bench, that the city would not allow that message because of its political content, that the message was not considered "advertising," whereas only "advertising" was allowed on bus benches.

22. The applicable city ordinance, Chapter 26, Section 26-146, of the Rockford Ordinances, does not define the term, “advertising.” Nor does it forbid political advertising.

23. Shortly thereafter, the message “Support Our Schools” appeared on a bus bench located just one block away from the bench on which “Abortion Kills Children” had been removed by the city’s directive.

24. The “Support Our Schools” message remained on the bench which was one block away from the bench on which plaintiffs’ pro-life message had appeared for two weeks. Then that same message urging support for schools was moved to the bench from which plaintiffs’ message that “Abortion Kills Children” had been removed by Rockford’s order.

25. The foregoing actions taken by Rockford were under color of law.

26. Rockford violated the First and Fourteenth Amendment rights of plaintiffs by removing their advertisement from the public bench – a public forum – because of the content of its message that “Abortion Kills Children,” pursuant to a policy, practice and custom.

27. Rockford violated plaintiffs’ constitutional rights to free speech and to the free exercise of their religion by means of proclaiming their faith in the public square by pursuing and enforcing its policy, practice and custom of viewpoint discrimination. Plaintiffs’ message was vandalized and suppressed by a city employee, and subsequently it was ordered removed by municipal order owing to its allegedly “political” nature. Yet the “support our schools” message – equally “political” – was allowed, first on a nearby bench and then on the very bench from which plaintiffs’ message had been destroyed, and then officially suppressed.

28. Rockford’s removal of the plaintiffs’ pro-life advertisement in response to alleged complaints on the part of other citizens was thus an enforcement of a heckler’s veto, and as such

it was also a violation of plaintiffs' fundamental constitutional rights under the First and Fourteenth Amendments.

WHEREFORE, upon the foregoing premises, plaintiffs request the following relief:

A. Rendition of a declaratory judgment, declaring that Rockford's policy, practice and custom of viewpoint discrimination against plaintiffs' pro-life message and its enforcement of a heckler's veto was an unconstitutional deprivation of plaintiffs' constitutional rights to free speech and the free exercise of religion and to the equal protection of the laws pursuant to the First and Fourteenth Amendments to the U.S. Constitution and that Rockford's implementation of said policy, practice and custom against plaintiffs under color of law was violative of plaintiffs' rights pursuant to 42 U.S.C. §1983;

B. Entry of preliminary and permanent injunctive relief against Rockford to allow plaintiffs to display their pro-life advertisement on the public way on the bus bench at East State and Summit Streets as originally contracted for with Wright, and prohibiting city employees from destroying or vandalizing such pro-life displays at any time in the future or threatening Wright with any sanctions or reprisals by virtue of its contracting for such display by plaintiffs or anybody else;

C. Awarding plaintiffs their costs and reasonable attorney's fee pursuant to 42 U.S.C. §1988, and compensatory damages as proved;

D. Any and all other relief to which plaintiffs may be entitled on the premises in accordance with law.

COUNT II
(Threatened Enforcement of Unconstitutional Nuisance Noise Ordinance to Silence Pro-Life Message Outside the Abortion Provider)

29. Plaintiff Rilott repeats and realleges each and every allegation contained in paragraphs 1 through 28 inclusive of Count I hereof with the same force and effect as if fully set forth herein.

30. Plaintiff Rilott, equally as other pro-lifers, regularly conducts an entirely peaceable, non-violent witness on the public sidewalk outside the abortion provider premises owned by the defendant Wayne Webster.

31. Rilott's wholly lawful and proper purpose is to offer women bound for the abortion provider a genuine "choice" in favor of saving their children's lives. He and other pro-lifers offer help and support, including financial help, to those expectant mothers needing it and considering abortion only for lack of it. They also offer help with arranging adoption as an abortion alternative. Repeatedly, they have heard reports from women who opted in favor of life for their babies that it was only the presence of pro-lifers offering help at the abortion premises at such a critical moment that gave them the support they needed to choose life rather than abortion.

32. Notwithstanding his peaceable and entirely lawful purpose in protesting and bearing witness at the abortion site, Rilott has found that some other persons – including defendant Wayne Webster, owner of the abortion provider premises in Rockford, and defendant Keith Sterkeson, who owns or occupies premises up the street from the abortion provider premises and purports to be a friend of Webster – are vehemently resentful of his presence at the abortion premises and hostile toward him when he is there.

33. Rilott occasionally must raise his voice to call out to women who park their cars in the parking lot of the abortion provider and make their way toward the building entrance, all of which

is some distance removed from the public sidewalk where he stands, and where he has every legal right to stand. He uses no artificial or electronic sound amplification device, and his voice is no louder than that of anybody in the neighborhood who hails a greeting to someone across the street or up or down the sidewalk at a distance of one or two residential lots.

34. There is an ordinance in Rockford, part of chapter 17, NOISE, section 17-10(a) of which provides as follows:

(a) It shall be unlawful to cause or create any unnecessary or unusual noise at any time which annoys, injures or endangers the comfort, repose, health or safety or others unless such noise is necessary for the protection or preservation of property or of the health, safety, or life of some person.

(b) No person owning or in possession or control of any building or premises shall use the same, permit the use of the same, or rent the same to be used to any business or employment or residential use, or for any purpose of pleasure or recreation, if such use shall, by its boisterous nature, disturb or destroy the peace of the neighborhood in which such building or premises is situated, or be dangerous or detrimental to health.

Section 17-11 of said noise ordinance provides a series of exemptions from the foregoing, covering: (a) Sirens and bells on emergency vehicles. (b) Fire and burglar alarms. (c) Civil defense and warning systems. (d) Train whistles and horns. (e) Authorized firework displays. (f) Authorized concerts and parades. Section 17-12 provides penalties, ranging from fines of from \$15 to not more than \$300 for a first offense, and not less than \$50 nor more than \$500 for the second and each subsequent offense in any 180 day period. Further, it is provided that the offense may be punishable as a misdemeanor by incarceration for a term not to exceed six (6) months under the procedure set forth in Section 1-2-1.1 of the Illinois Municipal Code, or by both fine and imprisonment. Each day's continuance or permission of any such violation shall constitute a separate and distinct offense.

35. Defendant Webster and defendant Sterkeson, as well as city police officers, repeatedly have threatened Rilott with arrest and prosecution for violating this Rockford nuisance noise ordinance by virtue of his raising his voice to call out offers of help and support to abortion-bound women.

36. Plaintiff Rilott reasonably fears an imminent prosecution by the city of Rockford for his violation of this statute, and he has been chilled and deterred from engaging in the robust exercise of his liberties of speech and religious expression by virtue of Rockford's threats to prosecute him under this nuisance noise ordinance. Yet, he believes that ordinance to be unconstitutional on its face as fatally void for vagueness and overbroad. Persons of ordinary intelligence could only guess or conjecture at what precise conduct this ordinance proscribes. Whatever evil at which it was originally targeted, the ordinance sweeps far too broadly and crosses the line into the sacred precincts of constitutionally protected political utterance.

37. The constitutional defects of Rockford's nuisance noise ordinance are apparent on its face. This is because the ordinance makes it a crime punishable by fines and imprisonment for up to six months to "annoy" someone with an "unusual" or "unnecessary" noise, and that could mean anything, since there's always someone who is annoyed by almost anything. And in this case, Rilott's annoyance of defendants Webster and Sterkeson is extreme, as they have made it all too painfully clear to him. Because Rilott's attack on the ordinance is a facial attack, he also pleads the claims of third parties who might "annoy" someone else no matter how loud or raucous or meek or mild their utterance, provided only that someone else branded their utterance as "unusual" or "unnecessary" and "annoying." No one faced with this law could possibly know whether he or she might be breaking it – and Rockford's nuisance noise ordinance would

proscribe quintessential political speech if only it caused some degree of annoyance in a listener.

38. The inescapable ambiguity of Rockford's nuisance noise ordinance mandates that it be stricken down. How is someone to know what might be "unnecessary" or "unusual" or "annoying" to someone else? How is any police officer in any way constrained from arresting someone on a whim or because of disagreement with the speaker's message? The question of whether any noise – the sound of any unamplified human voice – is "annoying" hinges on a purely subjective standard and thus rests solely on the sensibilities of the beholder. What might annoy one person might not annoy another. Someone protesting on a public sidewalk would have no way of knowing whether he or she was breaking the law. No standard of conduct is specified at all. What this ordinance outlaws in any given case is anybody's guess.

39. The lack of objective or measurable standards in the nuisance noise ordinance is in sharp contrast with other provisions in Rockford's noise ordinance. Section 17-3.1, for example, applies to sound-amplification systems and it sets forth a clear, ascertainable standard for determining what is legal and what is illegal. Subsection (a), captioned "*Restriction*," provides that, "No driver or person in control of any motor vehicle within the city shall operate or permit operation of any sound-amplification system which can be heard outside the vehicle from seventy-five (75) or more feet when the vehicle is being operated or parked upon a highway, unless such system is being operated to request assistance or warn of a hazardous situation." Section 17-4, applicable to "Boats," sets forth proscriptions couched in terms of specific decibel limits. Section 17-6 applicable to "Construction noise," bars use of hammer or power-operated tools within night time hours so long as they can be heard within 600 feet of any building used for residential or hospital purposes, excepting repairs to public services. Similar tangible, measurable

restrictions are set forth in other sections of the ordinance applicable to “Ground maintenance equipment” (Section 17-7) and “Miscellaneous noise sources” (Section 17-8). The nuisance noise statute alone fails the applicable constitutional tests. It must be struck down.

40. Wholly apart from the fatal ambiguities on the face of the ordinance, however, and apart from its going far beyond any specifically targeted evil that Rockford meant to outlaw, the case at bar demonstrates that the ordinance has been abusively and unconstitutionally applied. Here, defendants Wayne Webster and Keith Sterkeson themselves have engaged in loud and boisterous noise-making, yet the city has made no threat to enforce the ordinance against either of them. Webster plays loud rock music on the loudspeakers outside his abortion provider premises. Sterkeson yells at abortion patrons in a voice far louder than that of plaintiff Rilott, or any other pro-lifer who may be bearing witness or protesting there, to the effect that they should go through with their abortions, ignore the plea of Rilott or other pro-lifers, and often adding obnoxious comments such as, “I love the smell of dead bodies!” Yet, apparently because Webster and Sterkeson reside in the neighborhood or because abortion is legal, Rockford police officers only have threatened pro-lifers, including plaintiff Rilott, with prosecution under the nuisance noise ordinance. They do not deem it applicable, nor do they ever apply it in fact, to those who disagree with the plaintiffs’ pro-life message.

41. On prior occasions the city of Rockford has actually prosecuted other pro-lifers, although it has not yet prosecuted plaintiff Rilott, for violating the nuisance noise ordinance. The state courts have authoritatively upheld the ordinance against the instant constitutional challenges, both at the trial level and on appeal before the Illinois Appellate Court (albeit upon a *pro se* appeal in an unpublished opinion, by a Rule 23 order, *Rockford v. Horien*, which is not binding

on this or any other court, after which leave to appeal (by newly retained counsel) was denied by the Illinois Supreme Court, and a petition for certiorari (by counsel) was denied by the United States Supreme Court). Plaintiff is threatened with irreparable harm as the loss of liberties even for a short time constitutes irreparable injury as a matter of law. Plaintiff has no adequate remedy at law. His robust exercise of fundamental federal constitutional liberties has been chilled and inhibited as the proverbial sword of Damocles hangs over his head by a gossamer thread. The balance of the equities weighs decisively in plaintiff's favor, as enjoining an invalid law causes the city no legally cognizable harm. There is no equitable reason for this Court to stay its hand and forthrightly address the patent constitutional defects of this nuisance noise ordinance, for violation of which plaintiff Rilott has been threatened repeatedly.

WHEREFORE, upon the foregoing premises, plaintiffs request the following relief:

A. Rendition of a declaratory judgment, declaring that Rockford's nuisance noise ordinance is unconstitutional on its face, as fatally void for vagueness and/or overbroad and that any further threats to enforce said law against plaintiff Rilott, and any other third parties, must be preliminarily, and thereafter permanently, enjoined and barred;

B. Awarding plaintiff his costs and reasonable attorney's fee pursuant to 42 U.S.C. §1988, and compensatory damages as may be proved;

C. Any and all other relief to which plaintiff may be entitled on the premises in accordance with law.

COUNT III
(Rockford's Failure & Refusal to Protect
Pro-Lifers from Actual & Threatened Harm)

42. Plaintiff Rilott repeats and realleges each and every allegation contained in paragraphs 1 through 41 inclusive of Count II hereof with the same force and effect as if fully set forth.

43. The city of Rockford, its agents and officers, including law enforcement officers, have carried on a course of conduct amounting to a policy, practice and custom of failing and refusing to enforce the laws relating to public order and safety in favor of pro-lifers exercising their fundamental federal constitutional rights to engage in peaceable witness and protest in favor of the sanctity of life and against the taking of the lives of unborn human beings through abortion. This course of conduct has been evident both in the city's defacement and suppression of the bus bench pro-life advertisement, as alleged in Count I hereof, and in the city's actual and threatened enforcement of its unconstitutionally vague and overbroad nuisance noise ordinance against pro-lifers, as alleged in Count II hereof. It also has been evident in the city's repeated failure to give any credence to pro-lifers' complaints that they have been victimized, at or about the site of the abortion provider premises in Rockford, by criminal misconduct. The defendant city has engaged in discriminatory treatment of pro-lifers, failing and refusing to respond to 911 calls urging immediate emergency help in the face of assaults and batteries.

44. As late as last Saturday, March 29, 2008, plaintiff Rilott was present at the abortion provider premises early in the morning when abortion-bound patrons would begin to arrive for their abortion appointments that morning. Defendant Keith Sterkeson arrived on the scene with his dog and proceeded to assault and commit battery on the pro-lifers who were present. Rilott, in fear of bodily harm himself, phoned 911 asking for an emergency police response. The police did

not respond promptly at all and Sterkeson continued to harass and intimidate the pro-lifers present, including plaintiff Rilott. Defendant Wayne Webster then announced over his loudspeaker that he had heard on his police scanner that they were finally coming in response to Rilott's phone call, and Sterkeson then left the area. When the police arrived, they would not take any action – refusing even to write up a police report, let alone bring criminal charges – despite the presence of multiple witnesses who would testify to Sterkeson's criminal actions. The police left the scene, admonishing plaintiff Rilott and other pro-lifers present that if they were fearful of bodily harm they should no longer go to the abortion provider premises; that the police would not be their “babysitters”; and that no further action would be taken.

45. This was only the latest in a long series of interactions between the pro-lifers who bear witness and engage in peaceable protest at the Rockford abortion provider premises, on the one hand, and the law enforcers of the city of Rockford, on the other hand. This is only the latest evidence of the city's policy, practice and custom of discriminating in its law enforcement against pro-lifers, failing and refusing to protect their exercise of fundamental constitutionally protected rights under the First and Fourteenth Amendments to the U.S. Constitution. The city has carried out this policy, practice and custom in combination and conspiracy with defendants Wayne Webster and Keith Sterkeson, in violation of both 42 U.S.C. §1983 and 42 U.S.C. §1985(3), under color of law.

WHEREFORE, upon the foregoing premises, plaintiff Rilott prays for the following relief:

A. Rendition of a declaratory judgment, declaring that Rockford's policy, practice and custom of failing and refusing to extend the protection of its criminal laws to pro-lifers suffering actual and threatened criminal harm and misconduct at the abortion provider premises in

Rockford be declared an unconstitutional deprivation of plaintiff Rilott's rights under color of law pursuant to the First and Fourteenth Amendments to the U.S. Constitution and that said acts and omissions by Rockford, in combination with defendants Webster and Sterkeson, were violative of plaintiff's rights under 42 U.S.C. §1983 and 42 U.S.C. §1985(3);

B. Entry of preliminary and permanent injunctive relief against Rockford and its co-defendants to assure that plaintiff's robust exercise of federal constitutional rights will be fully protected;

C. Awarding plaintiff his costs and reasonable attorney's fee pursuant to 42 U.S.C. §1988, and compensatory damages as proved;

D. Any and all other relief to which plaintiff may be entitled on the premises in accordance with law.

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