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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

JEFF PAUL

Case No. 3:20-cv-1188

Plaintiff

**COMPLAINT FOR
CONSPIRACY TO
VIOLATE THE U.S.
CONSTITUTION**

vs

**DONALD TRUMP
CHAD WOLF
JOHN DOES 1-100**

Demand for Jury Trial

Defendants

1.

INTRODUCTION

“President Trump, in pushing a law-and-order message for his re-election campaign, has embraced a dark vision of Portland as a lawless place filled with people who ‘hate our country.’ His administration’s crackdown has brought armed officers from a wide variety of federal agencies to the streets, where they have been firing tear gas and pulling protesters into unmarked vans.”

– *The New York Times*, July 21, 2020

2.

On Saturday, July 18, 2020, Mr. Paul stood alongside retired military veterans, moms, nurses, Black Lives Matter advocates, legal observers, and other peaceful civil rights activists protesting police brutality outside the Justice Center in downtown Portland. Without warning, federal agents, acting under the orders of President Trump and Secretary Wolf, stormed the streets of Portland and began mercilessly attacking peaceful protesters with military weapons.

3.

Using a baton, federal agents viciously beat and mutilated Mr. Paul about the body and face, without provocation, sending Mr. Paul to the emergency room, where he stayed overnight receiving treatment.

4.

JURISDICTION AND THE PARTIES

This Court has jurisdiction under 28 U.S.C. § 1331 because this complaint presents federal questions and alleges violations of the U.S. Constitution. Venue is proper in this district under 28 U.S.C. § 1391 because Mr. Paul was beaten and mutilated in downtown Portland.

5.

Plaintiff Mr. Paul is an American citizen and a peaceful civil rights activist. Mr. Paul is a special education paraprofessional employed by Seattle Public Schools, working to create learning environments more inclusive to people of all backgrounds and abilities. He is also a Recreation Leader with Seattle Parks and Recreation, working to develop programs that promote equity and opportunity. Since George Floyd's murder in Minneapolis, Mr. Paul has been actively involved in civil rights protests, mostly in Seattle where he lives. Mr. Paul believes it is fundamentally important for citizens to protest the treatment of Black lives – racist treatment that has been systemic and generational. Mr. Paul decided to come to Portland to protest with the thousands of other peaceful people who have flooded the streets. Mr. Paul traveled to Portland to have his voice heard, and to engage in peaceful protest with the rest of the people in Portland, as the First Amendment to the U.S. Constitution allows.

6.

Defendant Donald Trump is the President of the United States.

7.

Defendant Chad Wolf is the acting Homeland Security Secretary of the United States. Wolf's predecessor, Kevin McAleenan, departed the office in part over concerns that the messaging and tone of the department had become too political.

8.

John Does 1-100 are unidentified federal agents, senior White House officials, and other co-conspirators who aided and abetted President Trump and Chad Wolf in the politically-motivated violations of the U.S. Constitution as alleged in this complaint, or who participated in the unprovoked attack on Mr. Paul.

9.

FACTUAL ALLEGATIONS

This complaint's allegations are based on personal knowledge as to Mr. Paul's behavior and made on information and belief as to the behavior of others.

10.

In May of 2020, hundreds of thousands of American civil rights activists began protesting the murder of George Floyd, a Black man killed by police officers in Minneapolis, Minnesota.

11.

President Trump has repeatedly advocated the use of force against Black demonstrators and civil rights activists protesting the murder of George Floyd.

12.

President Trump posted on social media about the protests, stating that “when the looting starts, the shooting starts,” which is a racist slogan used by former Miami police chief Walter Headley in 1967 to advocate for police brutality and discriminatory practices targeting African Americans. President Trump later tweeted, “These people are ANARCHISTS. Call in our National Guard NOW” and “This isn’t going to stop until the good guys are willing to use overwhelming force against the bad guys”.

13.

President Trump personally called on governors to “dominate your city and your state” and warned that he was prepared to “do something people haven’t seen before” when referring to the protests. During remarks in the White House Rose Garden, President Trump said that if “a city or a state refuses to take the actions that are necessary to defend the life and property of their residents, then I will deploy the United States military and quickly solve the problem for them.”

14.

President Trump's statements about Black demonstrators and civil rights protesters were different from his statements about other demonstrators. President Trump has routinely been sympathetic to demonstrators who share his own political agenda.

15.

For example, President Trump expressed support when heavily armed and predominantly white demonstrators threatened lawmakers and stormed statehouses to object to coronavirus stay-at-home rules. In response to the 2017 white nationalist Unite the Right rally in Charlottesville, Virginia, President Trump said, "You had very fine people, on both sides".

16.

In July of 2020, Secretary Wolf and senior DHS officials, acting under the orders of President Trump, took to the airwaves and social media to amplify President Trump's political message of law and order, using Portland, where protests over racial inequality and police brutality persisted, as an example.

17.

DHS law enforcement officers from Immigration and Customs Enforcement and Customs and Border Protection, two of the department's immigration agencies, were deployed to Portland. According to Oregon's governor, Secretary Wolf was "on a mission to provoke confrontation for political purposes." "The Trump administration needs to stop playing politics with people's lives."

18.

"Demonstrators in Portland have been protesting racial inequality and police brutality for the last 50 nights, US Attorney Billy J. Williams said in a statement. Federal authorities have protected the Mark O. Hatfield US Courthouse and, at times, interaction between protesters and law enforcement has gotten violent. Last weekend, one protester was seriously injured after the man was shot in the head with impact munition."

– *CNN*, July 20, 2020

19.

As of the date of this complaint, the U.S. Attorney for the Oregon District has requested an investigation into DHS and its treatment of protesters in Portland.

20.

According to U.S. Senator Jeff Merkley, “Authoritarian governments, not democratic republics, send unmarked authorities after protesters. These Trump/Barr tactics designed to eliminate any accountability are absolutely unacceptable in America, and must end.”

21.

Secretary Wolf recently told *Fox News*, “I offered DHS support to help them locally address the situation that’s going on in Portland, and their only response was: please pack up and go home. That’s just not going to happen on my watch.”

22.

On July 18, 2020, Mr. Paul and other peaceful protesters were exercising their First Amendment right to assemble, speak, and petition the government in downtown Portland. Mr. Paul and others were engaging in political speech to address, through the exercise of their constitutional rights, the infection of overt and systemic racism in the American criminal justice system.

23.

Black people are arrested at twice the rate of their population, detained pretrial at a rate three-and-a-half times higher than white people, and imprisoned at a rate of almost six times that of white people. Black people are three times more likely to be killed by the police than white people. On July 18, 2020, Mr. Paul was exercising his First Amendment right to protest and to change these systematic issues.

24.

As alleged in this complaint, in order to silence Mr. Paul and to stop him from peacefully exercising his First Amendment rights, federal agents, at the direction of Secretary Wolf, in order to carry out the political agenda of President Trump, beat and mutilated Mr. Paul so badly that he had to spend the night in the emergency room. The beating and mutilation of Mr. Paul by federal agents was under the direction of President Trump and other senior White House officials.



25.

On July 20, 2020, DHS Deputy Secretary Ken Cuccinelli tweeted videos and images of Portland, falsely labeling the unfolding situation as “terrorism” and projecting President Trump’s political message of instability. Secretary Wolf said in a Fox News interview that the department will intervene as it sees fit.

26.

“It’s not the first time DHS – the largest federal law enforcement organization – has found itself acting upon Trump’s long-held feuds against Democratic-run cities. Earlier this year, the department barred New York residents from applying to some Trusted Traveler Programs, like Global Entry, over legislation passed in the state relating to undocumented immigrants. Before then, the administration weighed retaliatory measures against so-called sanctuary cities.”

– *CNN*, July 20, 2020

27.

CLAIMS FOR RELIEF

— **Claim One against Secretary Wolf and John Does 1-100** —

First Amendment Violation

As alleged in this complaint, defendants violated the First Amendment to the U.S. Constitution by depriving Mr. Paul of his right to freedom of speech, freedom of assembly, and freedom to petition the government. Defendants deliberately violated well-established limitations on the exercise of speech in and assembly in public places, and did so for political reasons. Defendants' actions were based on the viewpoint being expressed by the peaceful protesters, including Mr. Paul. Defendants' violent actions were not a reasonable regulation of the time, place, or manner of Mr. Paul's First Amendment protected activity. These actions were not justified by a compelling—or even substantial—government interest justifying the infringement of Mr. Paul's First Amendment rights. Even if there were a compelling government interest in beating and mutilating peaceful protesters outside the Justice Center, defendants' actions were not narrowly tailored to serve any government interest in a lawful manner. Secretary Wolf and John Does 1-100 are jointly and severally liable to Mr. Paul under *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388, (1971), for this violation of his rights.

28.

— **Claim Two against Secretary Wolf and John Does 1-100** —

Fourth Amendment Violation

As alleged in this complaint, defendants violated the Fourth Amendment to the U.S. Constitution by using excessive physical force, including chemical agents, frightening loud munitions, batons and shields, and a physical charge at peaceful protesters including Mr. Paul, in order to forcibly remove or force them to move from the area outside the Justice Center, without a warrant or probable cause to arrest them—and the actions of Secretary Wolf in ordering such uses of force, violated Mr. Paul’s rights under the Fourth Amendment to the U.S. Constitution to be free from unreasonable seizures. Secretary Wolf and John Does 1-100 are jointly and severally liable to Mr. Paul under *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388, (1971), for this violation of his rights.

29.

— **Claim Three against all Defendants** —

First Amendment Threatened Violation

Defendants’ practice of deploying physical force against peaceful protesters to remove them from places in which they have gathered with others to express their political opinions, as manifest by their actions against Mr. Paul outside the Justice Center on July 18, 2020, by their repeated threats to deploy violence against protestors demonstrating against racial injustice generally and in Portland specifically, and by President Trump’s statements as alleged in this complaint, threatens Mr. Paul with violations of his First Amendment rights of freedom of speech and assembly when he carries out his stated intention to return to the Justice Center when it is open to the public to express his political views. By depriving Mr. Paul of the opportunity to express his views on such future occasions, defendants will impose irreparable harm on Mr. Paul.

30.

— **Claim Four against all Defendants** —

Fourth Amendment Threatened Violation

Defendants' practice of deploying excessive physical force without provocation, warning, or legal grounds to do so, against peaceful protesters to force them to halt or to move, as manifest by their actions against Mr. Paul and others outside the Justice Center on July 18, 2020, by their repeated threats to deploy violence against protestors demonstrating against racial injustice generally and in Portland specifically, and by President Trump's statements as alleged in this complaint, threatens Mr. Paul with violations of his Fourth Amendment rights when he carries out his stated intention to return to the Justice Center when it is open to the public to express his political views. By subjecting Mr. Paul to such unreasonable seizures, defendants will impose irreparable harm on Mr. Paul.

31.

— **Claim Five against Secretary Wolf and John Does 1-100** —

Conspiracy to Deprive Rights

As alleged in this complaint, Secretary Wolf and John Does 1-100 conspired together to deprive Mr. Paul of his civil rights in violation of 42 U.S.C. § 1985(3). The conspiracy included those involved with law enforcement actions outside the Justice Center on July 18, 2020 between 6:00 pm and 7:00 pm including President Trump, Secretary Wolf and John Does 1-100. The conspirators engaged in overt acts in furtherance of the conspiracy, including the use of excessive violent force against civil rights activists outside the Justice Center. The conspiracy targeted Black people and their supporters. Both groups are protected classes under 42 U.S.C. § 1985(3). President Trump, Secretary Wolf and others directed the conspiracy to take these actions because of their adverse effects on an identifiable group—namely, civil rights activists. The conspiracy targeted protected rights of Mr. Paul, who is a civil rights activist. The conspiracy targeted Mr. Paul’s protected First Amendment activities because defendants held animus towards Mr. Paul’s viewpoints. The violent actions of the conspirators directly and unlawfully interfered with Mr. Paul’s First Amendment activities. The conspiracy violently interfered with Mr. Paul’s right to demonstrate outside the Justice Center, a place of public accommodation.

32.

— **Claim Six against Secretary Wolf and John Does 1-100** —

Failure to Prevent a Conspiracy to Deprive Rights

As alleged in this complaint, Secretary Wolf and John Does 1-100 violated 42 U.S.C. § 1986 by failing to meet their duty to prevent or aid in preventing conspiracies to deprive civil rights. Secretary Wolf and John Does 1-100 knew that a Section 1985 violation was about to occur or was occurring, had the power to prevent or aid in preventing it, and neglected or refused to prevent or aid in preventing it. Law enforcement's failure to stop unlawful violence by a Section 1985(3) conspiracy when they know it is about to occur is a quintessential Section 1986 violation. As alleged in this complaint, the Section 1985 conspiracy consisted of using violence against peaceful civil rights activists. Secretary Wolf and John Does 1-100 knew that such violence was planned and could have taken actions to stop or limit that violence. Secretary Wolf and John Does 1-100 willfully or negligently took no such action. Secretary Wolf and John Does 1-100 could and should have refused to comply with unlawful orders, refused to use excessive force when clearing the area outside the Justice Center, or attempted to appeal to superiors to take a different course of action. As a result of defendants' failure to prevent or aid in preventing the Section 1985 conspiracy, Mr. Paul was injured and his rights were violated.

33.

JURY TRIAL REQUEST

Mr. Paul requests trial by jury.

34.

PRAYER FOR RELIEF

Mr. Paul respectfully requests a judgment declaring that the acts of defendants described in this complaint violate the First Amendment, the Fourth Amendment, 42 U.S.C. § 1985, and 42 U.S.C. § 1986, an injunction ordering defendants to cease engaging in the unlawful acts described in this complaint, fair compensation for damages sustained by Mr. Paul as alleged in this complaint, attorney fees, costs, and any other relief that the Court may deem appropriate.

July 21, 2020

RESPECTFULLY FILED,

s/ Michael Fuller

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