

FILED

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

2007 APR 10 AM 11:52

STEPHEN J. HARRIS, CLERK
U.S. DISTRICT COURT
FOR THE NORTHERN DISTRICT
OF INDIANA

LIZA GARRETT,)
)
Plaintiff,)
)
v.)
)
TOWN OF BRISTOL,)
BRISTOL-WASHINGTON)
TOWNSHIP PUBLIC LIBRARY,)
and MICHAEL W. ALBIN in his)
individual capacity,)
)
Defendants.)

CAUSE NO.

3:07CV0180RM

COMPLAINT AND DEMAND FOR JURY TRIAL

I. Nature of the Action

1. Plaintiff Liza Garrett (hereinafter "Garrett") brings this action against the Town of Bristol (hereinafter "Town"), the Bristol-Washington Township Public Library (hereinafter "Library"), and Michael W. Albin in his individual capacity (hereinafter "Albin") (hereinafter collectively "Defendants") pursuant to the Civil Rights Act of 1871, 42 U.S.C. § 1983, alleging that Defendants violated her rights as protected by the First and Fourteenth Amendments of the United States Constitution. Garrett also brings this action against Town and Library alleging that Town and Library violated her rights as protected by Title II of the Americans with Disabilities Act (hereinafter "ADA"), 42 U.S.C. § 12131 et seq and section 504 of the Rehabilitation Act (hereinafter "Rehabilitation Act"), 29 U.S.C. § 794 et seq.

II. Parties

2. Garrett has resided within the Northern District of Indiana at all times relevant to this action.

3. Town is a governmental entity that is located in the Northern District of Indiana.
4. Library is a governmental entity that is located in the Northern District of Indiana.
5. At all times relevant to this action, Albin was employed as a Sergeant by Town's Police Department.

III. Jurisdiction and Venue

6. Defendants are "person[s]" within the meaning of 42 U.S.C. § 1983.
7. Defendants, acting under color of law and pursuant to a policy, practice, and/or custom, violated Garrett's rights as protected by the First and Fourteenth Amendments of the United States Constitution.
8. Library is a "public entity" as defined by the ADA, 42 U.S.C. § 12131(1).
9. Garrett is a "qualified individual with a disability" as defined by the ADA, 42 U.S.C. § 12131(2), and the Rehabilitation Act, 29 U.S.C. § 705(20).
10. Upon information and belief, Town and Library are a "program or activity receiving Federal financial assistance" as defined by 29 U.S.C. § 794 *et seq.*
11. Jurisdiction is conferred on this Court by 28 U.S.C. § 1331, 28 U.S.C. § 1343, 42 U.S.C. § 12133, and 42 U.S.C. § 1983.
12. All of the events, transactions, and occurrences pertinent to this lawsuit have occurred within the geographical environs of the Northern District of Indiana and all parties are located therein. Therefore, venue is proper in this Court pursuant to 28 U.S.C. § 1391.

IV. Factual Allegations

13. On April 21, 2005, Garrett entered Library in order to read the newspaper and use the computers which are made available to members of the general public by Library.
14. While inside Library, Garrett suffered a seizure as a result of her disability.

15. When Garrett came out of her seizure, she was outside the Library and Albin, who upon information and belief had been contacted by Library, was present in his Bristol Police Department uniform.

16. Despite being informed that Garrett had a disability and was suffering a seizure, Albin presented Garrett with a trespass warning.

17. The trespass warning states “**You Must Leave This Property Immediately And You Must Not Return Again At Any Time In The Future.**” The property referenced in the trespass warning is Library. The trespass warning further states that Garrett will be subject to arrest and prosecution if she refused to leave Library immediately or returned to Library at any time.

18. After presenting the trespass warning to Garrett, Albin informed her that if she refused to sign the trespass warning, she would be arrested.

19. Albin also informed Garrett that she would be arrested if she returned to Library.

V. Causes of Action

Count I: Violation of First and Fourteenth Amendment

20. Garrett hereby incorporates paragraphs one (1) through nineteen (19) of her Complaint.

21. Garrett has a right to access a public library in order to receive information and ideas.

22. Defendants’ actions deprived Garrett of her right to access a public library in order to receive information and ideas.

23. Defendants’ actions were intentional, willful, and in reckless disregard of Garrett’s clearly established rights as protected by the First and Fourteenth Amendments of the

United States Constitution.

24. Garrett has suffered damages as a result of Defendants' unlawful actions.

Count II: Violations of ADA

25. Garrett hereby incorporates paragraphs one (1) through twenty-four (24) of her Complaint.

26. Town and Library have denied Garrett the benefits of the services, programs, and/or activities of a public entity because of her disability.

27. The actions of Town and Library were intentional, willful, and in reckless disregard of Garrett's clearly established rights as protected by the ADA.

28. Garrett has suffered damages as a result of the unlawful actions of Town and Library.

Count II: Violations of Rehabilitation Act

29. Garrett hereby incorporates paragraphs one (1) through twenty-eight (28) of her Complaint.

30. Town and Library have excluded Garrett from participation in, denied Garrett the benefits of, and/or subjected Garrett to discrimination under a program or activity receiving Federal financial assistance.

31. The actions of Town and Library were intentional, willful, and in reckless disregard of Garrett's clearly established rights as protected by the Rehabilitation Act.


32. Garrett has suffered damages as a result of the unlawful actions of Town and Library.

VI. Request for Relief

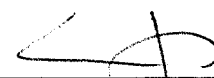
WHEREFORE, Plaintiff, Liza Garrett, by counsel, respectfully requests that this Court find for Plaintiff and:

1. Enter a declaratory judgment holding that Defendants' actions violated Garrett's rights as protected by the First and Fourteenth Amendments of United States Constitution;
2. Enjoin Defendants from continuing, threatened, and future violations of Garrett's rights as protected by the First and Fourteenth Amendments of the United States Constitution;
3. Enter a declaratory judgment holding that the actions of Town and Library violated Garrett's rights as protected by Title II of the ADA;
4. Enjoin Town and Library from continuing, threatened, and future violations of Garrett's rights as protected by Title II of the ADA;
5. Enter a declaratory judgment holding that the actions of Town and Library violated Garrett's rights as protected by section 504 of the Rehabilitation Act;
6. Enjoin Town and Library from continuing, threatened, and future violations of Garrett's rights as protected by section 504 of the Rehabilitation Act;
7. Order that Defendants pay compensatory damages to Garrett;
8. Order that Albin, in his individual capacity, pay punitive damages to Garrett;
9. Order that Defendants pay pre- and post-judgement interest to Garrett;
10. Order that Defendants pay Garrett's costs and attorneys' fees incurred in litigating this action; and
11. Order that Defendants provide any and all other legal and/or equitable relief to Garrett that this Court sees fit to grant.

Respectfully submitted,



Philip J. Gibbons, Jr. (19353-49)



Andrew G. Jones (23020-49)


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DEMAND FOR JURY TRIAL

Comes now the Plaintiff, Liza Garrett, by counsel, and demands a trial by jury on all issues deemed so triable.

Respectfully submitted,



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