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 City of Hamilton and Boone Karlberg P.C.*

IN THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF MONTANA  
 MISSOULA DIVISION

MICHAEL E. SPREADBURY,

Plaintiff,

v.

BITTERROOT PUBLIC LIBRARY,  
 CITY OF HAMILTON, LEE  
 ENTERPRISES, INC., and BOONE  
 KARLBERG P.C.

Defendants.

Cause No. CV-11-064-M-DWM

**CITY DEFENDANTS’  
 STATEMENT OF GENUINE  
 ISSUES IN OPPOSITION TO  
 PLAINTIFF’S MOTION FOR  
 PARTIAL SUMMARY  
 JUDGMENT**

Pursuant to Local Rule 56.1(b), Rules of Procedure, United States District

Court, District of Montana, Defendants Bitterroot Public Library, Dr. Robert

Brophy, Trista Smith, Nansu Roddy, City of Hamilton, Jerry Steele, Steve Snavely, Steven Bruner-Murphy, Ryan Oster, Kenneth S. Bell and Jennifer B. Lint (collectively, “City Defendants”), submit the following statement of genuine issues in opposition to Plaintiff Michael E. Spreadbury’s (“Spreadbury”) motion for partial summary judgment.

1. In May or June 2009, Spreadbury met with Senior Librarian Nansu Roddy at the Bitterroot Public Library (the “library”). (Amended Complaint, ¶ 31; Joint Answer of Defendants Bitterroot Public Library and City of Hamilton to Amended Complaint, ¶ 19.)

2. Spreadbury requested that a hand-written letter written by another person alleging local government corruption be placed on the reserve shelf of the library. (Amended Complaint, ¶ 31; Joint Answer of Defendants Bitterroot Public Library and City of Hamilton to Amended Complaint, ¶ 19.)

3. Ms. Roddy, on behalf of the library, refused. (Amended Complaint, ¶ 31; Joint Answer of Defendants Bitterroot Public Library and City of Hamilton to Amended Complaint, ¶ 19.)

4. After multiple interactions with library staff, Spreadbury was banned from the library. (Amended Complaint, ¶ 31; Joint Answer of Defendants Bitterroot Public Library and City of Hamilton to Amended Complaint, ¶ 19.)

5. Despite the ban, witnesses reported to local law enforcement that Spreadbury returned to the library property, and he was subsequently charged with criminal trespass. (See Amended Complaint, ¶¶ 43-46; Joint Answer of Defendants Bitterroot Public Library and City of Hamilton to Amended Complaint, ¶¶ 3, 21.)

6. On February 18, 2010, based on proof beyond a reasonable doubt, a jury in the City Court for the City of Hamilton found Spreadbury guilty of criminal trespass. (See 2/18/10 City Court Verdict and 2/18/10 City Sentencing Order, attached as **Exhibit A**.)

7. While the criminal trespass charge was pending, Spreadbury approached Ms. Roddy outside the library, and, as a result of that encounter, Ms. Roddy sought and obtained an Order of Protection against him. (Joint Answer of Defendants Bitterroot Public Library and City of Hamilton to Amended Complaint, ¶ 21.)

8. Spreadbury repeatedly attempted to modify, re-litigate or otherwise collaterally attack the Order of Protection. (Joint Answer of Defendants Bitterroot Public Library and City of Hamilton to Amended Complaint, ¶ 21.)

9. All attempts were denied, including a Petition for Rehearing where the Montana Supreme Court warned Spreadbury that further legal filings against

Ms. Roddy “may be sanctioned by the imposition of costs, attorney’s fees and/or other monetary or non-monetary penalties under M.R.App.P. 19(5).” (Joint Answer of Defendants Bitterroot Public Library and City of Hamilton to Amended Complaint, ¶ 21.)

10. Based on Spreadbury’s encounter with Ms. Roddy, Spreadbury was charged with felony intimidation. (Joint Answer of Defendants Bitterroot Public Library and City of Hamilton to Amended Complaint, ¶ 21.)

11. He pleaded no contest to the felony intimidation charge and was sentenced on October 20, 2010. (Joint Answer of Defendants Bitterroot Public Library and City of Hamilton to Amended Complaint, ¶ 21.)

12. Following his plea, the charge for misdemeanor criminal trespass, which Spreadbury had appealed, was voluntarily dismissed. (Joint Answer of Defendants Bitterroot Public Library and City of Hamilton to Amended Complaint, ¶ 26.)

13. Spreadbury has appealed the felony conviction and the sentence has been stayed pending the appeal. (Joint Answer of Defendants Bitterroot Public Library and City of Hamilton to Amended Complaint, ¶ 21.)

14. The City has not admitted “to prosecuting Spreadbury for peaceful assembly on public property,” as Spreadbury suggests. The responses cited by Spreadbury state as follows:

2. Admit the allegations in paragraphs 1, 30 and 117 of the Amended Complaint.

21. Answering the allegations in paragraphs 44-46, 48 and 55 of the Amended Complaint, admit Plaintiff was charged by the City, acting through its City Attorney, with misdemeanor criminal trespass. Allege that, while that charge was pending, Plaintiff approached Nansu Roddy, and as a result of that encounter, Ms. Roddy sought and obtained an Order of Protection against Plaintiff. Allege Plaintiff has repeatedly attempted to modify, set aside, re-litigate or otherwise collaterally attack the Order of Protection. Allege that, on March 15, 2011, the Montana Supreme Court entered its Order in Cause No. DA-11-00117 denying Plaintiff’s Petition for Rehearing based upon the Montana Rules of Appellate Procedure and *res judicata*. Allege the Montana Supreme Court Order, filed March 15, 2011, reads, in part, “We caution Michael from using this matter as a means of harassing Roddy. Further pleadings filed before this Court in this matter without good cause may be sanctioned by the imposition of costs, attorney’s fees and/or other monetary or non-monetary penalties under M.R.App.P. 19(5).” Admit Plaintiff was charged with felony intimidation as a result of his contact with Ms. Roddy. Allege Plaintiff pleaded no contest to the felony intimidation charge and was sentenced on October 20, 2010.

57. Answering the allegations in paragraphs 169-173 of the Amended Complaint, admit Kenneth S. Bell filed a criminal complaint against Plaintiff. Deny the balance of the allegations in paragraphs 169-173.

(Joint Answer of Defendants Bitterroot Public Library and City of Hamilton to Amended Complaint, ¶¶ 2, 21, 57.)

15. The City Defendants have not admitted to violating Spreadbury's right to free speech, as Spreadbury suggests. The "admission" upon which Spreadbury's argument is based reads as follows:

19. Answering the allegations in paragraphs 31-37, 40, 41 and 57 of the Amended Complaint, admit Plaintiff attempted to persuade Nansu Roddy and other Library staff to include a letter written by another Bitterroot Valley resident, other than Plaintiff, to President Obama in the Library's collection. Admit the request was refused. Admit Plaintiff was eventually banned from the Library. Admit Plaintiff sent one or more letters regarding the Library's actions.

(Individual City Defendants' Answer, ¶19.)

16. Spreadbury claims the City Defendants have admitted tortious and unconstitutional conduct in revoking his library privileges. However, in the specific response cited by Spreadbury, the City Defendants responded as follows:

19. Answering the allegations in paragraphs 31-37, 40, 41 and 57 of the Amended Complaint, admit Plaintiff attempted to persuade Nansu Roddy and other Library staff to include a letter written by another Bitterroot Valley resident, other than Plaintiff, to President Obama in the Library's collection. Admit the request was refused. Admit Plaintiff was eventually banned from the Library. Admit Plaintiff sent one or more letters regarding the Library's actions.

(Individual City Defendants' Answer, ¶19.)

17. The City did not wrongfully restrict Spreadbury's access to the Ravalli Republic. As its response to Spreadbury's complaint made clear:

20. Answering the allegations in paragraphs 38 and 39 of the Amended Complaint, admit a representative of the *Ravalli Republic*

called the Ravalli County Dispatch concerning Plaintiff's conduct at the offices of the *Ravalli Republic*. Admit representatives of the Hamilton Police Department responded to the *Ravalli Republic*. Admit one or more representatives of the Hamilton Police Department have told Plaintiff that the *Ravalli Republic* did not want Plaintiff to enter their business offices because of his conduct.

(Joint Answer of Defendants Bitterroot Public Library and City of Hamilton to Amended Complaint, ¶ 20.)

18. Spreadbury argues "Defendant City of Hamilton further admits HPD Detective Murphy investigated, published, and sent reports to Hamilton City Attorney Bell for prosecution," but the admission Spreadbury cites actually reads as follows:

51. Answering the allegations in paragraphs 151-155 of the Amended Complaint, admit Plaintiff was investigated. Deny the balance of the allegations in these paragraphs.

(Joint Answer of Defendants Bitterroot Public Library and City of Hamilton to Amended Complaint, ¶ 51.)

19. Spreadbury suggests the City has admitted City Attorney Kenneth S. Bell and Hamilton Police Chief Ryan Oster were policymakers for all purposes, but the City's responses read as follows:

43. Answering the allegations in paragraphs 128-131 of the Amended Complaint, admit Kenneth S. Bell is an official policymaker in some respects. Deny the balance of the allegations in the paragraphs.

...

45. Answering the allegations in paragraphs 133-135 of the Amended Complaint, admit Police Chief Oster is an official policymaker in some respects. Deny the balance of the allegations in the paragraphs.

(Joint Answer of Defendants Bitterroot Public Library and City of Hamilton to Amended Complaint, ¶¶43, 45.)

DATED this 16th day of May, 2011.

/s/Thomas J. Leonard  
Thomas J. Leonard  
BOONE KARLBERG P.C.  
*Attorneys for Defendants  
Bitterroot Public Library, City of  
Hamilton and Boone Karlberg P.C.*



CERTIFICATE OF SERVICE

I hereby certify that, on the 16th day of May, 2011, a copy of the foregoing document was served on the following persons by the following means:

- 1        CM/ECF
- Hand Delivery
- 2        Mail
- Overnight Delivery Service
- Fax
- E-Mail

1. Clerk, U.S. District Court
2. Michael E. Spreadbury  
700 South Fourth Street  
Hamilton, MT 59840

/s/ Thomas J. Leonard  
Thomas J. Leonard  
BOONE KARLBERG P.C.  
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and Boone Karlberg P.C.*