

IN THE CIRCUIT COURT FOR
MADISON COUNTY, ALABAMA

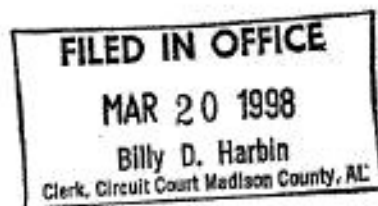
JULIO and CARMEN TELLERIA,)
Plaintiffs, and BYONG-RYE AHN,)
Plaintiff-Intervenor)

vs.)

WAYLAND COOLEY, individually)
and in his official capacity as the Tax)
Assessor for Madison County,)
Alabama,)

Defendant.)

CIVIL ACTION NO. 96-2220JWB



PLAINTIFFS' SECOND AMENDED COMPLAINT

1. This is a civil action brought to vindicate the plaintiffs' rights under the Fourteenth Amendment to the United States Constitution pursuant to 42 U.S.C. § 1983, the Civil Rights Act of 1866, 42 U.S.C. § 1981, Article I, § 1 of the Constitution of Alabama of 1901, and Article I, § 34 of the Constitution of Alabama of 1901. Plaintiffs seek declaratory and injunctive relief to require the defendant to cease discriminating against them on the basis of their race, national origin, ancestry, and ethnic characteristics. They seek compensatory and punitive damages for the defendant's unlawful conduct.

PARTIES

2. Plaintiffs Julio and Carmen Telleria are naturalized U.S. citizens and have resided in Madison County, Alabama since May 1995. Both are Hispanics of Dominican ancestry. Mr. Telleria is a black Hispanic and is over sixty-five years of age.

3. Defendant Wayland Cooley is the elected Tax Assessor for Madison County and, in such capacity, has the duty and responsibility to assess all real estate in Madison County for the purpose of taxation and to grant all applicable

statutory exemptions from taxation. He is sued in his individual and official capacities.

STATEMENT OF FACTS

4. On May 30, 1995, plaintiffs Julio and Carmen Telleria purchased a home in Madison County, Alabama, for use as their primary residence.

5. During August, 1996, the Tellerias appeared before the defendant to return a list of their property and to claim their statutory homestead exemptions for 1996 and 1997. The Tellerias are entitled to partial exemptions of state ad valorem property taxes based on their property's status as residential property and based on plaintiff Julio Telleria's age. Because the Tellerias are not fluent in the English language, their son accompanied them to the defendant's office to provide any necessary translation.

6. The defendant informed the Tellerias that they were required to take an oral oath attesting to the accuracy of the listing of their property and that the oath must be administered in the English language. The Tellerias offered to have their son translate the oath for them, but the defendant refused to allow them to take the oath in any language other than English. The defendant further accused the Tellerias of not being United States citizens.

7. The Tellerias returned several weeks later with another translator, Rosa Almanza, and again offered to take the oath through the translator. The defendant's agent, Ms. Jones, refused to allow them to take the oath.

8. Approximately one week later, Ms. Almanza telephoned the defendant and informed him that the Tellerias could state the oath in English. The defendant refused to allow the Tellerias to do so, claiming that they would not understand what they were actually stating in English.

9. Based entirely upon the plaintiffs' inability to fully understand and speak the English language, the defendant refused to grant the statutory

exemptions to the plaintiffs, resulting in the imposition of a higher tax liability on them than state law requires.

10. The defendant's actions are not narrowly tailored to achieve any compelling state interest.

11. The defendant's actions are not substantially related to a sufficiently important government interest.

12. The defendant's actions are not rationally related to any legitimate state interest.

13. The defendant has acted and continues to act under color of state law.

CLAIMS FOR RELIEF

14. The defendant's refusal to allow the plaintiffs to claim the homestead exemptions to which they are entitled is intentional discrimination against the plaintiffs on the basis of their race and national origin. Such discrimination violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and may be remedied pursuant to 42 U.S.C. § 1983.

15. The defendant's refusal to allow the plaintiffs to claim the homestead exemptions to which they are entitled is an intentional denial to the plaintiffs of the full and equal benefits of the laws of the state of Alabama on the basis of their race, ancestry, and ethnic characteristics. Such discrimination violates the Civil Rights Act of 1866, 42 U.S.C. § 1981.

16. The defendant's refusal to allow the plaintiffs to claim the homestead exemptions to which they are entitled is intentional discrimination against the plaintiffs on the basis of their race and national origin. Such discrimination violates Article I, § 1 of the Constitution of Alabama of 1901.

17. The defendant's refusal to allow the plaintiffs to claim the homestead exemptions to which they are entitled is a deprivation of their property rights on

the basis of their status as foreign-born citizens in violation of Article I, § 34 of the Constitution of Alabama of 1901.

18. Alternatively, the defendant's failure to allow the plaintiffs to claim the homestead exemptions to which they are entitled resulted from the negligent and/or reckless performance of his duties, accompanied by malice against the plaintiffs and/or reckless disregard of their rights.

PRAYER FOR RELIEF

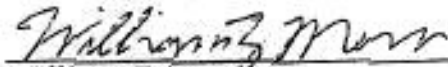
WHEREFORE, plaintiffs pray that this Honorable Court grant the following relief:

1. Declare unconstitutional and unlawful the defendant's discriminatory actions;
2. Enter a permanent injunction requiring the defendant, his agents, employees, and all persons acting in concert with him to cease their unconstitutional and unlawful practices;
3. Award plaintiffs compensatory and punitive damages;
4. Award plaintiffs reasonable costs and attorneys' fees (except to the Legal Services Corporation of Alabama, which is statutorily prohibited from receiving such fees); and
5. Grant plaintiffs such other relief as the Court deems necessary and just.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the Plaintiffs' Second Amended Complaint, by first-class mail, postage prepaid, on the 19th of March, 1998, on the person listed below:

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