



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR SUSSEX COUNTY

JEFFREY S. CHRISTOPHER,)
)
Plaintiff,) C.A. No.
)
v.)
)
SUSSEX COUNTY, a political subdivision of the)
State of Delaware; MICHAEL H. VINCENT, Sussex)
County Council President; SAMUEL R. WILSON,)
Sussex County Council Vice President; JOAN R.)
DEAVER, Sussex County Council Councilwoman;)
GEORGE B. COLE, Sussex County Council Councilman;)
VANCE C. PHILLIPS, Sussex County Council)
Councilman; TODD F. LAWSON, Sussex County)
Administrator,)
)
Defendants.)

COMPLAINT

For his Complaint, Plaintiff Jeffrey S. Christopher, by and through his undersigned counsel, alleges as follows:

PARTIES

1. Plaintiff is Jeffrey S. Christopher, Sheriff of Sussex County, Delaware, who is the duly elected incumbent of that constitutional Office pursuant to Del. Const. art. III, § 11, 22, art. XV, § 1.
2. Defendant Sussex County is a political subdivision of the State of Delaware and is subject to the jurisdiction of this court.
3. Defendant Michael H. Vincent is President of Sussex County Council, the governing body of Sussex County, Delaware, under 9 *Del C.* §§ 7001-08. He is named in his official capacity.

4. Defendant Samuel R. Wilson is Vice President of Sussex County Council. He is named in his official capacity.

5. Defendant Joan R. Deaver is the 3rd district councilwoman of Sussex County Council. She is named in her official capacity.

6. Defendant George B. Cole is the 4th district councilman of Sussex County Council. He is named in his official capacity.

7. Defendant Vance C. Phillips is the 5th district councilman of Sussex County Council. He is named in his official capacity.

8. Defendant Todd F. Lawson is Sussex County Administrator under 9 *Del C.* § 7003. He is named in his official capacity.

9. This Court has jurisdiction pursuant to 10 *Del C.* §§ 541, 6501-13.

FACTS

10. Paragraphs 1-9 are re-alleged and incorporated herein and, by this reference, made a part hereof as if fully set forth herein.

11. Since the time of the Magna Carta in 1215, and perhaps as far back as the Norman Conquest of 1066, Sheriffs in England had the authority and duty to enforce the laws to maintain the "King's Peace." This prerogative was exercised at all times through officers collectively described as "conservators of the peace."

12. Delaware's earliest Sheriffs, including its first, Hermanus Wiltbank who took office in 1669, were appointed officials. With the passage of Delaware's first Constitution in 1776, however, the Sheriff became an elected official.

13. The Delaware Constitution of 1792, for the first time, expressly provided that the “Sheriffs . . . shall, by virtue of their offices, be conservators thereof, within the counties respectively in which they reside.” Del Const. art. VIII, § 1 (1792).

14. For approximately 210 years, Sheriffs of Delaware have been constitutionally charged to conserve the peace within their respective jurisdictions. As elected county officials directly responsible to the citizens of their respective jurisdictions, Sheriffs have provided a necessary check and balance of power among appointed and elected state and county officials.

15. The Delaware Constitution of 1897 provides that “the Sheriffs *shall* be conservators of the peace within the counties respectively in which they reside.” Del. Const. art. XV, § 1 (emphasis added).

16. Despite this constitutional mandate, Defendants have sought to nullify Sheriff Christopher’s constitutional authority by any means possible.

17. In the spring of 2011, a memorandum drafted by Defendant Vance C. Phillips titled “Do Not Expand the Role of the Sheriff” memorialized Sussex County Council’s constitutionally incorrect conclusion that Sheriff Christopher, the constitutionally mandated conservator of the peace, could not engage in “law enforcement activities.” In reaching that conclusion, members of the Council recognized that the Constitution charged Sheriffs to serve as “conservators of the peace,” yet improperly determined that Sheriff Christopher’s constitutional authority was a matter of statutory interpretation rather than constitutional inquiry. Because that memorandum’s conclusion is founded upon flawed legal analysis, Sheriff Christopher has continually and correctly disputed the Council’s position regarding his constitutional authority.

18. On October 31, 2011, in an effort to enforce the Council’s position and to seek to bring to heel the duly elected Sheriff, David B. Baker, then-Sussex County Administrator, issued

a memorandum to Plaintiff, a constitutional officer, which concluded that Sheriff Christopher and his Deputies did not have the power to enforce the laws of the State of Delaware or to engage in the prevention and detection of crime, including: (1) the power to conduct traffic stops; (2) the power of *posse comitatus*; (3) the authority to maintain emergency lights on vehicles used by the Sheriff's Office; (4) the power to process outstanding warrants or bring individuals into custody unless specifically ordered by the appropriate Delaware court of law; (5) the power to transport prisoners, mental patients, and PFA individuals unless specifically ordered by the appropriate Delaware court of law; and (6) the power to provide security or crowd control at any event.

19. The County Administrator concluded his memorandum by admonishing Sheriff Christopher, a duly elected constitutional officer, that lack of compliance with the Administrator's memorandum would be viewed by the County Administration as "insubordination." The obvious (but entirely incorrect) implication is that the constitutional Office of Sheriff is subordinate to the County Administration. The County Administrator did not reference any constitutional bases for such an assertion, as there are none.

20. To ensure Sheriff Christopher's compliance with their demands, Defendants have attempted to control day-to-day operations of the Sheriff's Office and employment status of its personnel by arbitrarily denying Sheriff Christopher's budgetary requests, including approvals for necessary equipment, training, and staff salaries.

21. Most recently, Defendants Michael H. Vincent, Samuel R. Wilson, Joan R. Deaver, George B. Cole, and Vance C. Phillips petitioned Delaware's General Assembly to rewrite Delaware's statutory provisions involving the Sheriff and law enforcement generally. On or about April 5, 2012, said Defendants submitted to the 146th General Assembly on behalf of

Sussex County Council a position paper supporting House Bill 290. This bill, which was introduced on behalf of said Defendants, attempted, among other things, to revoke from Sheriffs and Deputy Sheriffs their constitutional prerogative as conservators of the peace to effectuate arrests.

22. In light of the foregoing actions, Defendants' concerted efforts to strip Sheriff Christopher of his authority pose a serious threat to the autonomy and constitutional integrity of the Sheriff's Office. More importantly, Defendants' behavior ultimately endangers the safety of Sussex County citizens.

23. The principal role of Sheriff Christopher and his Deputies, as conservators of the peace, is to protect and serve the citizens of Sussex County. Consistent with this role, Chief Deputy Sheriff Dennis R. Lineweaver, on April 22, 2012, prevented a potentially fatal domestic-related incident on State Route 26 near Vines Creek Bridge. (See Deputy Lineweaver's Report¹ attached hereto as Exhibit A.) While on duty, Deputy Lineweaver observed a gray vehicle tailgating a maroon vehicle in a manner exceeding mere road rage or aggressive driving. After observing the gray vehicle's attempt to force the other off the road and avoiding a near head-on collision with the gray vehicle, Deputy Lineweaver stopped both vehicles.

24. The male driver of the gray vehicle advised Deputy Lineweaver that he was trying to stop his girlfriend (who was driving the maroon vehicle) so they could talk about their child. After producing his driver's license, the male driver admitted to having recently smoked marijuana. Deputy Lineweaver instructed this individual to stay and keep his hands on the wheel. Deputy Lineweaver then approached the maroon vehicle. The female driver of that vehicle advised that the male driver was trying to run her off the road.

¹ For privacy purposes, the identifications and descriptions of the individuals involved in this incident have been redacted from the Report.

25. The male driver of the grey vehicle suddenly pulled away, and fled on State Route 26 towards Dagsboro. Deputy Lineweaver contacted State Police and a trooper arrived near the scene. When the trooper arrived, the female driver recounted what had transpired, and the parties observed a gray scuff mark on her vehicle's left rear quarter panel.

26. Although Deputy Lineweaver's conduct was consistent with his authority as conservator of the peace and prevented a potentially fatal incident, Defendant Todd F. Lawson, County Administrator, on April 24, 2012 issued a memorandum cautioning that Deputy Lineweaver's conduct could be perceived as "law enforcement activities," and as such, Sussex County's Law Enforcement Liability Coverage would provide no personal protection. (*See* Todd F. Lawson's Memorandum attached hereto as Exhibit B). This memorandum relied in part on Sussex County Administrator's October 31, 2011 memorandum and advised that Deputy Lineweaver and his fellow Deputies were not to conduct law enforcement activities.

27. The above example is one of many involving actions properly taken by Sheriff Christopher and his Deputies to preserve and protect the persons, property, and safety of Sussex County citizens. It further demonstrates the critical nature of the peacekeeping role of Sheriff Christopher and his Deputies, especially given the large geographic size of Sussex County, the nonexistence of a county police force, and the limited resources and personnel of the Delaware State Police.

COUNT 1 **Declaratory Judgment**

28. Paragraphs 1-27 are re-alleged and incorporated herein and, by this reference, made a part hereof as if fully set forth herein.

29. Because the Delaware Constitution of 1897 provides that the Sheriffs *shall* be conservators of the peace, this constitutional Office and all of the common law rights, duties, and

prerogatives inhering thereto cannot be abrogated or diminished by the Executive, Legislative, or Judicial branches of government, or any elected or appointed official thereof, absent constitutional amendment.

30. Allowing any such branch of government, government official, or entity within the State of Delaware to abrogate the authority of this Office would unquestionably violate traditional notions of separation of powers, potentially render the Office powerless, and wrongly subject the incumbent of the Office to the directives of state and county officials.

31. As evidenced by Defendants' official communications, memoranda, and statements concluding that Plaintiff has no law enforcement authority or power to make arrests—in direct contravention of Plaintiff's constitutional mandate—an actual controversy exists between Plaintiff and Defendants.

32. By virtue of their positions as councilpersons of Sussex County Council, Defendants Michael H. Vincent, Samuel R. Wilson, Joan R. Deaver, George B. Cole, and Vance C. Phillips have been involved in an effort to strip Plaintiff of his authority under the Delaware Constitution, and in doing so, have encroached upon the independent authority of Plaintiff as a constitutional Officer.

33. By virtue of his position as Sussex County Administrator, Defendant Todd F. Lawson has been involved in an effort to strip Plaintiff of his authority under the Delaware Constitution. In doing so, he has encroached upon Plaintiff's autonomy and authority as a constitutional Officer.

34. This controversy implicates the authority vested in Jeffrey S. Christopher as the duly elected Sheriff of Sussex County by the Delaware Constitution of 1897, and in turn, the authority vested in the Chief Deputy Sheriff and Sheriff Deputies.

35. This controversy is ripe for judicial determination because Defendants' aforementioned actions, inactions, orders, directives, and opinions have preempted Plaintiff's constitutional mandate to discharge the duties of his Office as conservator of the peace.

36. Plaintiff's legitimate interest necessitates a prompt resolution of the question presented, because further delay may threaten the safety of Plaintiff, Chief Deputy Sheriff, and Deputy Sheriffs, and may endanger the safety, property, and persons of Sussex County citizens.

WHEREFORE, Plaintiff Jeffrey S. Christopher hereby respectfully requests that this Court enter judgment in his favor and against the defendants, as follows:

1. Issue a declaratory judgment declaring that Plaintiff is the Chief Law Enforcement Officer of Sussex County and has full authority under the Delaware Constitution to exercise within Sussex County all the common law powers, duties, and responsibilities attendant upon his Office, as conservator of the peace, without direction, restriction, or interference of any kind from any other government official or entity within the State of Delaware, such duties to include:

- a) maintaining and protecting the safety of persons and property;
- b) suppressing all acts of violence and enforcing all laws of the State of Delaware;
- c) detaining and arresting on view anyone who breaks the peace;
- d) detaining and arresting without warrant anyone who has committed any crime or misdemeanor, and anyone against whom there are reasonable grounds of suspicion of having committed a felony;

- e) exercising exclusive control and authority over Sussex County Chief Deputy Sheriff and Deputy Sheriffs;
- f) receiving sufficient and adequate financial appropriations; and
- g) exercising all the powers, rights, and duties incidental to Plaintiff's authority, including:
 - i. complete and unrestricted access to the Delaware Criminal Justice Information System (DELJIS) and the LEISS warrant application;
 - ii. emergency lights and appropriate signage on vehicles used by the Office of the Sheriff;
 - iii. professional training for Office of the Sheriff personnel;
 - iv. *posse comitatus*;
 - v. conducting traffic stops;
 - vi. transporting prisoners, mental patients, and PFA individuals; and
 - vii. providing security or crowd control at any event.

2. Issue a declaratory judgment declaring that Plaintiff's authority under the Delaware Constitution shall not be abrogated or diminished in any way by any government official, branch of government, or other entity within the State of Delaware absent constitutional amendment.

3. Enter a judgment against Defendant Sussex County for Plaintiff's costs and attorneys' fees under 10 *Del C.* § 6510.

4. Grant such other and further relief as is just and proper.

CONNOLLY BOVE LODGE & HUTZ LLP

/s/ Christos T. Adamopoulos

Christos T. Adamopoulos, Esquire (#3922)

1007 N. Orange Street

P.O. Box 2207

Wilmington, Delaware 19899

(302) 658-9141

Attorneys for Plaintiff

OF COUNSEL:

Jeffrey A. Wothers, Esquire

Jason E. Fetterman, Esquire

Leslie J. Williams, Esquire

Jason C. Reichlyn, Esquire

Niles, Barton & Wilmer, LLP

111 South Calvert Street, Suite 1400

Baltimore, Maryland 21202

(410) 783-6300

Dated: May 8, 2012