

**UNITED STATES  
 DISTRICT COURT  
 FOR THE DISTRICT OF RHODE ISLAND**

<b>JAMES BRADY, (Detective, Retired)</b>	}	
<b>Plaintiff</b>		
v.	}	<b>C.A. 2017-</b>

**RICHARD TAMBURINI, individually  
 and in his capacity as  
 CHIEF, JOHNSTON POLICE DEPARTMENT;}**  
 and the  
**TOWN OF JOHNSTON** }  
**Defendants**

**COMPLAINT**

**I. Introductory Statement**

1. This is an action for declaratory and injunctive relief, plus damages, costs, and attorney's fees, brought pursuant to 42 U.S.C. § 1983, by a former Johnston Police Department Detective and President of the IBPO (International Brotherhood of Police Officers), Local 307, against the Chief of Police, Richard Tamburini, after James Brady was disciplined for allegedly violating Policy # 100.04, Sections III (D)(1)(b) and (V), and Policy # 520.02 Sections III (A)(2) and E(1) as violative of Brady's First Amendment rights, on their face, and as applied in this case, for a variety of reasons. Brady was disciplined under those rules and subjected to a two-day docking of pay.

**II. Jurisdiction**

2. This Court has jurisdiction over the claims in this case by virtue of 28 U.S.C. Section 1331 and Section 1343 (a)(3).

### **III. The Parties**

3. Plaintiff James Brady, now retired, was an eighteen-year veteran in the Johnston Police Department, who was union president of the IPBO Local 307 during all relevant times herein, and was a Detective at the time of these incidents.
4. Defendant Town of Johnston, Rhode Island (hereafter “Johnston” or “Town”) is a Rhode Island municipality organized and existing pursuant to state law.
5. Defendant Richard Tamburini is the Chief of Police of defendant Town of Johnston. As such he has responsibility to promulgate and enforce rules of conduct for Johnston police offices. He acts under authority and color of state law.

### **IV. Factual Background**

6. Plaintiff realleges as incorporated herein the allegations set forth in paragraphs 1-5, supra.
7. On July 1, 2015, Patrolman Adam Catamero was on duty and witnessed Ronald Fraraccio speeding at 53-mph in a 35-mph speed limit zone. Officer Catamero was finally able to pull Mr. Fraraccio’s vehicle over, but a witness to the incident, the office manager at R&F Auto, owned by Fraraccio, filed a complaint against Catamero for, inter alia, “conduct unbecoming an officer.” The end result of the stop was a warning, not a ticket.
8. Nevertheless, the complaint went forward, and Chief Tamburini issued a summary punishment suspending Catamero for two days. Officer Catamero filed a grievance and Chief Tamburini denied it on August 3, 2015.
9. The IBPO, of which plaintiff Brady was president, filed a demand for arbitration under the contract. The arbitrator held hearings and on July 14, 2016, issued a decision

finding that Officer Catamero had not violated any rules and that the complaint was “disingenuous.”

10. The Town of Johnston filed papers in Superior Court to stay and vacate the arbitration award. The IBPO filed a cross-motion to confirm the award.
11. On February 20, 2017, the Providence County Superior Court, Licht, J., issued a decision (14 pages) granting the IBPO motion to confirm and denying Johnston’s request to vacate the arbitration award. A copy of that decision, which provides details regarding paragraphs 7-11 of this complaint, is attached and incorporated by reference. It is a final judgment of the Superior Court.
12. Officer Catamero then filed an action against the Town of Johnston and Chief Tamburini after he was fired by Tamburini in the summer of 2016 for continuing “problems” even though Dr. Stuart Gitlow, the doctor to whom Tamburini turned when he wanted support for his position, did not recommend termination.
13. That action, filed in this Court, has been settled. However, while it was pending, a Providence Journal reporter, Jacqueline Tempera, asked Joseph Penza, the lawyer for Catamero, to have the IBPO president call her about the case. Penza contacted plaintiff Brady, who contacted Ms. Tempera at the Journal. As a result of all of this, her article about the Catamero case appeared on September 15, 2016, including comments from plaintiff Brady, identified as the union president. A copy of that article is attached and incorporated by reference so the reader can determine for himself whether the matter discussed is one of “public concern.”
14. Five days after the appearance of the September 15 article in the Journal, Chief Tamburini initiated disciplinary proceedings against plaintiff Brady for, inter alia,

speaking to the media, and violating professional standards of the Johnston Police Department, namely Policy 100.04. (“conduct unbecoming an officer”) and Policy 520.02 (“Public Information/Media Relations/Persons Authorized to Disseminate Information”), copies of the two policies are attached hereto as Exhibits C&D, since they are subject of plaintiff’s First Amendment challenge.

15. On September 21, 2017, the Providence Journal again wrote about the continuing controversy. That article is attached to this complaint, and again incorporated by reference, as Exhibit E, for the reasons set forth in paragraph 13, supra.
16. Defendant Tamburini wrote to plaintiff on September 20, 2016, advising plaintiff of the charges and the administrative proceeding “rights” (Exhibit F & G) and on October 31, 2016 to advise plaintiff of the results (summary punishment and two day suspension without pay) (Exhibit H).
17. This matter had by then attracted the attention of the national president of the IBPO, who, on September 23, 2016, had issued a press release comparing Chief Tamburini to the Sheriff of Nottingham. (Exhibit I).
18. Plaintiff was in fact docked two days’ pay, has endured the consequences of the suspension, and retired thereafter. See Exhibit J (one-page notice, dated November 3, 2016, regarding docking of pay).
19. Plaintiff and those he represented are still unclear about what the Chief, and the Department, consider to be a strictly private matter, not protected by the First Amendment.
20. Plaintiff and those he represented are unclear as to what the Chief and the Department consider to be “conduct unbecoming to an officer,” “official business,”

“dissemination,” “disseminating information,” “to those for whom it is intended,” or “crisis situation.”

21. Plaintiff and those he represented are unclear as to what timeline, if any, is involved in the approval process of Policy 520.02.
22. Plaintiff believes, and believed, that the matter about which he spoke to the media on September 15, 2016, was a matter of public concern. Plaintiff spoke to the media explicitly in his capacity as President of the IBPO, in addition to his capacity as an employee of the Police Department.

#### **Legal Claims**

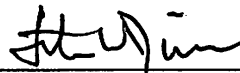
23. Plaintiff Brady’s rights protected by the First Amendment were violated by defendants by the use of Policies 100.4 and 520.02, Johnston Police Department, which are unconstitutional on their face, as a prior restraint.
24. Plaintiff Brady’s rights protected by the First Amendment were violated by defendants by the use of Policies 100.4 and 520.02, Johnston Police Department, which are unconstitutional on their face, as void for vagueness.
25. Plaintiff Brady’s rights protected by the First Amendment were violated by defendants by the use of Policies 100.4 and 520.02, Johnston Police Department, which are unconstitutional on their face, as giving unlimited discretion to the Chief of Police to grant or deny permission.
26. Plaintiff Brady’s rights protected by the First Amendment were violated by defendants by the use of Policies 100.4 and 520.02, Johnston Police Department, which are unconstitutional on their face as causing delay in the right to speak, with no timeframe in the rules for a decision on the request for permission to speak.

27. Plaintiff Brady's rights protected by the First Amendment were violated by defendants by the use of Policies 100.4 and 520.02, Johnston Police Department, as applied to the particular facts of plaintiff Brady's actions in September 2016 in speaking with a Journal reporter, and as may be applied in the future, causing a chilling of First Amendment rights.

28. Each of the above claims is actionable pursuant to 42 U.S.C. Section 1983 in conjunction with the First Amendment to the United States Constitution.

**Wherefore**, plaintiff requests that this Court enter judgment in his favor for declaratory and injunctive relief, invalidating Policies 100.4 and 520.02 on their face and as applied to these facts and order damages to Plaintiff for the deduction from pay, and order that all reference to discipline for alleged violation of Policies 100.4 and 520.03, and these incidents, be deleted from plaintiff's personnel file, award costs and fees, pursuant to U.S.C. § 1988, and such other relief as this Court deems just or necessary.

Respectfully submitted  
Plaintiff  
By his Attorney



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