

CANADA)
PROVINCE OF SASKATCHEWAN)

IN THE COURT OF QUEEN'S BENCH
JUDICIAL CENTRE OF WEYBURN

BETWEEN:

WILLIAM WHATCOTT

PLAINTIFF

- and -

PRINCE ALBERT BOARD OF POLICE COMMISSIONERS

and

**CLIFFORD PRYCE, TYLER CHESTER,
DAVID SCHLUFF and J. STONECHILD**

DEFENDANTS

Statement of Claim

1. The PLAINTIFF, WILLIAM WHATCOTT, is a pro-life activist who engages himself from time to time to educate the general public on the issue of abortion, and who resides at the city of Edmonton, in the province of Alberta.
2. The DEFENDANT, PRINCE ALBERT BOARD OF POLICE COMMISSIONERS, (hereinafter referred to as the Commission) is in charge of police services in the city of Prince Albert, Saskatchewan and the other Defendants are all employees of the Prince Albert Board of Police Commissioners and are all of the city of Prince Albert, in the province of Saskatchewan.
3. a) On or about June 23rd, 2001, the Plaintiff and several others held large signs with pictures of living and dead unborn children (hereinafter referred to as the pictures) on a street in the city of Prince Albert, Saskatchewan, at approximately 12:00 noon, in order to draw the attention of the general public to the results of abortion.

b) The Plaintiff was arrested and placed into custody by the Defendant, Sgt. Clifford Bryce. At about 9:00 p.m., the Plaintiff was taken to a Justice of

the Peace and let out on bail after being in custody for approximately eight hours. The Plaintiff was charged with causing a disturbance by exhibiting an indecent exhibition in a public place contrary to Section 175(b) of the *Criminal Code of Canada*.

- c) The Plaintiff was required to return to Prince Albert from his home in Regina on August 2nd, 2001, for fingerprinting and a court appearance to enter a not guilty plea and to set a trial date. It was not until the day before August 2nd that the Plaintiff was actually advised that the charge against him would be dropped, and his presence in court would not be required.
4. On or about August 2, 2001, the Plaintiff returned to Prince Albert from his home in Regina to retrieve the signs that the Prince Albert Police had taken and detained from the Plaintiff. While in Prince Albert, the Plaintiff held another similar peaceful demonstration and distributed some flyers to households in Prince Albert on the realities of abortion. The Plaintiff was not charged with any offence on this occasion.
5.
 - a) On July 2, 2002, the Plaintiff returned to Prince Albert to hold another peaceful demonstration and show the pictures.
 - b) After holding the pictures by the roadway for about 30 minutes, Sgt. David Schluff approached the Plaintiff and told the Plaintiff to put the pictures away. The Plaintiff objected and told Sgt. Schluff that he had the right to hold the signs and his order to put his signs away was not a lawful order. Instead of arresting the Plaintiff, Sgt. Schluff started to pull upon the Plaintiff's sign, and at that point, the Plaintiff released his sign and told the officer he was going to obtain another sign from his vehicle.
 - c) After obtaining a new sign, two other officers, Tim Settee and Darryl Hickie, grabbed the Plaintiff, placed the Plaintiff in handcuffs and tossed him up on the hood of a car. Only while being handcuffed was the Plaintiff told he was under arrest.
 - d) The Plaintiff was subsequently improperly jailed and held in jail for five

hours. When released, the signs of the Plaintiff were not returned to the Plaintiff.

- e) The Plaintiff was subsequently charged with *stunting* under s.45(2) of *The Highway Traffic Act of Saskatchewan*, and with *obstruction* under s.129(a) of the *Criminal Code of Canada*.
 - f) During the trial, the Plaintiff made an application for a nonsuit, which was granted. The Plaintiff was therefore acquitted of the charge of *stunting* under *The Highway Act* on March 20, 2003. The trial proceeded on the charge of obstruction, and the Plaintiff was convicted of *obstruction* on July 22, 2003, for *failing to obey a lawful order*, namely, the Plaintiff's refusal to hand over his second set pictures to Sgt. Schluff. This conviction is presently under appeal.
 - g) If the Plaintiff is acquitted of the charge of obstruction prior to trial, the Plaintiff will seek damages for same. If the Plaintiff has not been acquitted of the charge of obstruction at the date of trial, the Plaintiff will bring a separate action for same upon his acquittal.
6. a) On July 24, 2002, the Plaintiff and others distributed flyers depicting an aborted 7- month-old headless fetus, a photograph of Sgt. Schluff and commentary. The flyers were being distributed door to door in a residential area.
- b) At about 10:30 p.m. on July 24, 2002, Constable J. Stonechild, an employee of the Defendant, improperly removed and converted to his own use or the use of the Defendant the flyer that was being distributed. Constable J. Stonechild also improperly placed the Plaintiff under arrest and charged him with *mischievous interference* by wilfully interfering with the lawful use, enjoyment of property, contrary to s. 430(4) of the *Criminal Code of Canada*.

- c) The Plaintiff was unlawfully jailed and placed in a jail cell with an impaired person who threw up during the night. The Plaintiff was not released from custody until the next morning when he was arraigned and released on his own recognizance with a condition that he not attend at the city of Prince Albert until the day prior to his appearance on December 2, 2002.
 - d) On or before December 2, 2002, the Plaintiff was advised that the police would be staying the proceedings against him, and on or before December 2, 2002 the charge was stayed.
- 7.
- a) On or about August 31, 2003, the Plaintiff returned to the city of Prince Albert to once again show the pictures and to distribute flyers.
 - b) After showing the pictures for about an hour, police officers attended and once again told the Plaintiff to take the pictures away.
 - c) When the Plaintiff refused to take the pictures away, the Plaintiff was told by the police that they would arrest him as soon as someone complained.
 - d) Prior to receiving any complaint, the Defendant, Constable Tyler Chester learned that there was an outstanding arrest warrant for the Plaintiff for an unpaid parking ticket from the City of Regina. The police therefore arrested the Plaintiff and advised the Plaintiff that they would detain him in jail for three days unless he paid the parking fine. The said Constable Tyler Chester thereupon arrested the Plaintiff and advised the Plaintiff that he would be detained in jail for three days unless he paid the parking fine.
 - e) The Defendant, Constable Tyler Chester, refused to provide the Plaintiff with a Bible or any other reading material while in jail, and advised the Plaintiff they would not be providing same for three days.
 - f) The police also advised the Plaintiff that he could not shower nor provided any means for the Plaintiff to brush his teeth during his first day of incarceration.

- g) The Plaintiff claims that it is extraordinary for the police of one city to jail someone on an arrest warrant for a parking fine in another city, and that their sole purpose was to punish the Plaintiff for showing the pictures.
 - h) The Plaintiff was released from custody when a Christian taxi driver attended at the police station and paid the Plaintiff=s outstanding parking fine with the City of Regina. The fine was approximately \$43.00.
 - i) When released from custody, the Plaintiff then attended at the corner of 2nd Avenue West and 15th Street in Prince Albert and showed the pictures once again. The police did not attend or attempt to stop the Plaintiff from showing the pictures this time.
 - j) The Plaintiff states that the jailing of the Plaintiff on August 31, 2003, is an indication of the malice that the Defendant and its employees have displayed towards the Plaintiff. The jailing was also an abuse of their authority, and was done for the sole purpose of stopping the Plaintiff from exercising his right of free speech and expression as protected under *The Canadian Charter of Rights and Freedoms*.
8. By reason of the matters and facts set forth in paragraphs 3, 5, 6 and 7 of the Plaintiff=s Statement of Claim, the Plaintiff was in each instance referred to therein wrongfully, and without reasonable cause, arrested and taken into custody by the respective members of the Prince Albert Police Service, controlled by the Commission, and in each case was taken into custody to the Prince Albert Police Station, and the particulars of such detention are set forth in paragraphs 3, 5, 6 and 7 of this Statement of Claim.
9. The individual Defendant police officers were at all material times under the direction and control of the Commission, in the performance or purported performance of their functions.
10. The Plaintiff was wrongfully imprisoned and deprived of his liberty on the four occasions previously referred to, and the Defendant is liable to the Plaintiff in respect of each of such imprisonments.

11. By reason of several such false imprisonments, the Plaintiff suffered humiliation and damages.
12. By reason of the said false imprisonments, the Plaintiff's right to security of person under s.7 of the *The Canadian Charter of Rights and Freedoms* has been violated, and he was arbitrarily detained contrary to s.9 of the said *Charter* on each of these occasions, and he therefore seeks the remedy of damages or such other remedy as the court considers appropriate and just in the circumstances pursuant to s.24 of the said *Charter*.
13. The Plaintiff repeats the allegations and fact contained in paragraphs 3, 5, 6 and 7 of this Statement of Claim, and in each case the Plaintiff says that the Defendant, Prince Albert Board of Police Commissioners, through its servants or agents, maliciously and without reasonable and probable cause laid the information recited therein against the Plaintiff, requiring him to appear, and in each case the Informations were withdrawn, dismissed or stayed as recited therein. In consequence of the matters aforesaid, the Plaintiff was injured in his reputation and was put to considerable trouble, inconvenience, anxiety and expense, and has suffered loss and damage. In each case the Plaintiff states that the proceedings brought against him were brought for reasons other than reasonable and probable cause and instead for an ulterior motive, that is, to stop the Plaintiff from carrying on his peaceful protest against abortion in the manner that he chose.
14. The Plaintiff repeats the allegations and fact contained in paragraphs 3, 5, 6 and 7 of this Statement of Claim, and in each case the Plaintiff says that the Defendant, Prince Albert Board of Police Commissioners, through its servants or agents, acted negligently and abused their powers of public office and the criminal process in order to arrest the Plaintiff.
15. As a result of the improper arrest and charge for *stunting* on July 2, 2004, under *The Highway Traffic Act*, the Plaintiff was convicted for obstruction, because of his refusal to give Sgt. Schluff his pictures when requested.

16. As a result of said conviction for obstruction, the Plaintiff was unable to apply for a pardon for criminal convictions of his youth, which happened ten years earlier, and as a result, the Plaintiff could not obtain more profitable employment.