

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

LISA WILSON, *et al.*
Plaintiffs

v.

DAVID WALLACE,
Defendant

Case No. 1:17-cv-00582

Judge Dlott

CONSENT DECREE AND ORDER

Plaintiffs brought this action for a declaratory judgment, injunctive relief, and violation of 42 U.S.C. §1983 against Defendant alleging that Defendant engaged in unconstitutional actions in violation of Plaintiffs' right to free speech under the United States Constitution.

As a result of the parties having engaged in settlement negotiations, the parties agreed that this action should be finally resolved by entry of this Consent Decree as an amicable way of resolving all outstanding differences that may have existed in this case. This Consent Decree is intended and does fully and finally resolve any and all claims arising out of the Complaint filed by the Plaintiffs. The parties waive a hearing prior to the entry of this Consent Decree.

STIPULATIONS

1. Plaintiffs are citizens and registered voters in Hamilton Township, Warren County, Ohio.
2. Defendant is a Hamilton Township Trustee. Defendant was sued in his official capacity for declaratory and injunctive relief.
3. Wallace maintains a Facebook Page titled "David Wallace, Jr. - Hamilton Township Trustee" over which he exerts control (the "Facebook Page").

4. Wallace has administrative control over the Facebook Page, meaning that he has the ability to post to the page and edit its contents. He also had the ability to remove comments and prevent people from making further comments on the posts on this page (a/k/a “blocking”).
5. Defendant blocked Plaintiffs and other individuals from commenting on the Facebook Page. Defendant was acting under color of state law or undertook state action in taking this action.
6. This Court has jurisdiction in this matter pursuant to 28 U.S.C. §§ 1331 and 1343 in that this case arises, in part, under the Constitution and laws of the United States, specifically the First Amendment to the Constitution and 42 U.S.C. §1983.
7. This Court is an appropriate venue for this cause of action pursuant to 28 U.S.C. § 1391. The defendant is a resident of the State in which this district is located and a substantial part of the events or omissions giving rise to the claim occurred in this district.

ORDER

The parties having freely given their consent, and the terms of the decree being fair and reasonable, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

1. The Court finds the following:
 - a. The Court has jurisdiction of the subject matter of this action and of the parties.
 - b. The terms and provisions of this Consent Decree are adequate, fair, reasonable, equitable, and just. The rights of the parties are adequately protected by this Consent Decree.
 - c. This Consent Decree conforms with the Federal Rules of Civil Procedure and is not in derogation of the rights and privileges of any person.
 - d. The remedies set forth in this Consent Decree are narrowly drawn, extend no further than necessary to prevent irreparable harm, and are the least intrusive means necessary to obtain the ends sought.

2. Wallace will immediately remove any blocks, bans, or impediments to Plaintiffs and all other persons from viewing or commenting upon the Facebook Page.
3. Wallace is prohibited from blocking, banning, or in any manner impeding Plaintiffs and all other persons from viewing or commenting upon the following:
 - a. The Facebook Page;
 - b. Any other social media site, or webpage established by Wallace arising out of public, not personal, circumstances or maintained for the purpose of providing information to the public, communicating with his constituents, or otherwise used as a tool of governance.
4. This Consent Decree does not prohibit Wallace from blocking, banning, or impeding persons from viewing or commenting on any social media site or webpage as a result of credible threats, hate speech, comments that purposefully target any person with the intention of degrading or shaming them, or that otherwise violate the terms of service of the social media site or webpage.
5. This Consent Decree is binding on Wallace as well as his agents, employees, successors, assigns, and all those in active concert or participation with him.
6. Wallace shall, within fourteen days of the Entry of this Consent Decree, pay to Engel & Martin, LLC an amount agreed upon as costs and attorneys fees in this matter pursuant to 42 U.S.C. §1988.
7. This Consent Decree is final and binding as to all issues set forth in the Complaint and terminates this litigation. The Court shall retain jurisdiction over this action to enter such further relief as may be necessary for the effectuation of the terms of this Consent Decree, including, if appropriate, any proceeding necessary to ensure the timely implementation of permanent relief.

8. The Court shall award additional reasonable attorneys fees, expert fees, and costs incurred by the Plaintiffs in enforcing the terms of this Consent Decree, if necessary.

SO ORDERED.


UNITED STATES DISTRICT JUDGE

APPROVED AND CONSENTED TO BY THE PARTIES:

FOR PLAINTIFFS

/s/ Joshua Engel
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