

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

KYMBERLY QUICK and)	
DEBORAH MAYS-MILLER,)	
)	
Plaintiffs,)	
)	
v.)	No. 1:16-cv-1709-TWP-DML
)	
CITY OF BEECH GROVE,)	
)	
Defendant.)	

Stipulation to Enter Consent Injunction

The parties, by their counsel, stipulate and agree to the following:

1. The plaintiffs, Kymberly Quick and Deborah Mays-Miller wish to engage in speech on the Beech Grove Facebook pages, including, but not limited to, the Beech Grove Police Department's Facebook pages, the City of Beech Grove's Beech Grove Facebook page, and any future Facebook page that the City of Beech Grove creates and allows public comment.
2. The defendant, City of Beech Grove, is a municipal corporation located in Marion County, Indiana.
3. The plaintiffs allege that the City of Beech Grove engaged in impermissible viewpoint discrimination when it removed comments plaintiffs posted on its Facebook pages and blocked plaintiffs from posting future comments. The City of Beech Grove contends that it lawfully removed posts and blocked users from its pages.
4. The plaintiffs wish to continue posting on the City's Facebook pages without their comments being censored on the basis of their viewpoint.

5. The parties therefore agree that the following permanent injunction should issue in this case:

Defendant is enjoined from blocking the plaintiffs from posting comments on the Beech Grove Police Department, City Facebook pages, and from removing public comments on the basis of their viewpoint, and from blocking future users from posting comments because of the viewpoint of those comments. Defendant shall pay plaintiffs \$7,412.50 in costs and attorneys fees within 45 days of the date of this order.

6. The defendant wishes to continue to regulate the subject matter of public comments on its Facebook pages in a viewpoint neutral manner, and therefore has devised a policy, hereto attached as Exhibit 1. The policy will apply to the Beech Grove Police Department's Facebook page, and a similarly worded policy will apply to the defendant's other Facebook pages.
7. The plaintiffs do not concede the constitutionality of any future application of the policy, and reserve the right to challenge such an application through separate litigation.
8. The City of Beech Grove agrees to pay \$7,412.50 in full satisfaction of plaintiffs' costs and attorney's fees in this case as prevailing parties under 42 U.S.C. § 1988. Such payment shall be made within 45 days of entry of the Court's order.

WHEREFORE, the parties request that the above permanent injunction be entered in this case.

For the plaintiffs:

/s/ Jan P. Mensz
Jan P. Mensz
ACLU of Indiana
1031 E. Washington St.
Indianapolis, IN 46202

317.635.4059, x107
<jmensz@aclu-in.org>

/s/ Kenneth J. Falk
Kenneth J. Falk
ACLU of Indiana
1031 E. Washington St.
Indianapolis, IN 46202
317.635.4059, x104
<kfalk@aclu-in.org>

For the defendant:

/s/ Craig W. Wiley (with permission)
Craig W. Wiley
Jackson Lewis P.C.
10 West Market Street
Suite 2400
Indianapolis, IN 46204
Telephone: 317-489-6935 Direct
Fax: (317) 489-6931
wileyc@jacksonlewis.com

Welcome to the Beech Grove Police Department's official Facebook page! The purpose of this page is to present matters of public interest concerning the Beech Grove Police Department's programs, activities, news stories, and photos.

We welcome your comments, however, please note this is a moderated online discussion page and not a public forum. Furthermore, while we encourage debate and discussion, we respectfully request that commentators be mindful that this is a family friendly page, and that comments and posts be courteous and civil.

Comments or posts made by the public to this Facebook page will be monitored, and while they will not be removed based on their opinion or viewpoint, the Department reserves the right to remove comments that include:

- Comments unrelated to the purpose and topical scope of the page.
- Obscenities.
- Personal identifying information or sensitive personal information.
- Incitement to imminent lawless action.
- Speech presenting a grave and imminent threat.
- Fighting words.
- True threats.
- Fraud.
- Defamation (libel/slander).
- Solicitations to commit, or speech integral to, criminal conduct.
- Information that could reasonably compromise public safety.
- Promotion or advertisement of a business or commercial transaction.
- Promotion or endorsement in favor of, or in opposition to, a political campaign or candidate.
- Apparent spam.
- Content posted by automatic software programs (i.e., "bots")
- Information which may interfere or compromise current investigations, police tactics, and the safety of police staff and officers.
- Copyrighted material (if posted without the copyright holder's consent).

The Department may take steps to remove a comment if it falls within one of the foregoing categories. By posting or commenting you agree to these terms of use. If Facebook user's comment is removed, the moderator will notify the user by Facebook Messenger that the comment was removed and the reason for its removal. You participate at your own risk, and recognize that by posting on this page, you are personally responsible for your comments and any information provided.

Violations of our terms may go unnoticed as the page is not monitored 24/7. If you as a user discover any comments or posts that seem to violate our terms, please send us a private message.

The Department disclaims liability for advertisements, videos, promoted content, or comments posted by visitors to this page. The responsibility for external content of comments rests solely with the organizations or individuals providing them. Any inclusion or exclusion of content or comments does not imply endorsement or opposition by the City of Beech Grove, the Beech Grove Police Department, or any of their employees or officers.

If you need police assistance for an emergency or to report a crime, please DO NOT use our Facebook page. For emergencies, call 911. For non-emergencies, call the Beech Grove Police Department at (317) 782-4949 or dispatch at (317) 327-3811.

All suspects who appear on this page as suspects or wanted individuals are innocent until proven guilty in a court of law.