

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS

PATTY HECTOR

Plaintiff

v.

Case No. 4:25-cv-91-JM

MATTHEW BRUMLEY, Saline County Judge, in his official capacity,
and SALINE COUNTY, ARKANSAS

Defendants

RESPONSE IN OPPOSITION TO
DEFENDANTS' MOTION FOR PARTIAL JUDGMENT ON THE PLEADINGS

The Saline County Quorum Court intended to punish Patty Hector for her opposition to censorship by removing her as Saline County Library Director. Rather than firing her directly, it transferred legal firing authority from the intransigent Library Board to County Judge Matthew Brumley. Judge Brumley then fired her—as he made plain that he would before the Quorum Court enacted the ordinance.

Contrary to Defendants' argument, the Quorum Court may not evade the Attainder Clause by securing Hector's termination indirectly instead of directly. Under the facts of this case, a jury could find that the ordinance was “a law that legislatively determines guilt and inflicts punishment upon an identifiable individual without provision of the protections of a judicial trial.” *Nixon v. Administrator of General Services*, 433 U.S. 425, 468 (1977). Plaintiff has adequately stated facts that establish her Attainder Clause claim.

To review the facts stated in the complaint: Hector served at the pleasure of the Saline County Library Board. Compl. ¶24. In 2023, she spoke out against a

resolution of the Saline County Quorum Court that proposed censorship of books in the library's children's section. Compl. ¶¶29, 32–33. These comments angered members of the Quorum Court, one of whom called her mentally disordered. Compl. ¶38. County Judge Brumley was also upset and attacked Hector at a meeting of the Library Board. Compl. ¶¶34–35. Despite Hector's disfavored status before Judge Brumley, some members of the public, and most members of the Quorum Court, the Library Board refused to fire her. Compl. ¶40.

The Quorum Court responded by passing an ordinance to have Judge Brumley do what the Library Board would not do. During the meeting at which the ordinance was introduced, Judge Brumley aired his grievances against Hector, including his opinion that he had no confidence in Hector as Director. Compl. ¶46. JP Jim Whitley then made explicit what the ordinance was about: "I would ask each one of you before the next Quorum Court meeting, do you personally, have you also, lost confidence in the Director and the leadership of the Saline County Library?" Compl. ¶47. As soon as the ordinance went into effect, Judge Brumley carried out the Quorum Court's purpose by firing Hector. Compl. ¶¶53–58. Judge Brumley has not used the ordinance to fire any other employee of the Saline County Library. Compl. ¶59. That is because the ordinance targeted one person: Patty Hector.

"The imposition on an easily identifiable individual or class of a sanction of mandatory forfeiture of job or office has long been considered punishment under the bill of attainder clause." *Crain v. City of Mountain Home, Ark.*, 611 F.2d 726, 728 (8th Cir. 1979). It is unquestionable that had the ordinance expressly removed

Hector from her position, it would be a bill of attainder. However, contrary to Defendants' argument, naming a particular person for punishment is not the only way a legislative body may run afoul of the Attainder Clause. That is the lesson of *Crain*, in which a city council sought to rid itself of a disfavored employee by enacting the following ordinance: "Beginning January 1, 1979, and annually thereafter, the salary and compensation of the City Attorney of the City of Mountain Home, Arkansas, is established and set at the sum of (\$1.00) per annum." *Id.* at 727 n.2. The court explained that this ordinance was "facially constitutional"—it applied prospectively and generically to any city attorney that the city might hire. *Id.* at 729. But the court found it to violate the Attainder Clause as applied—it "factually constitutes improper action taken by the council in an effort to make Crain forfeit his position since, as a practical matter, its intent was to punish him if he accepted the rights and obligations of his elective position." *Id.*

The Saline County Quorum Court's ordinance is similar. Facially, it reads as a mundane transfer of authority from one arm of government to another. But when the ordinance is viewed in the context of all the facts pled in the complaint, it is difficult to see it as anything other than punishment of a particular person. A jury reasonably could find that the Quorum Court passed this ordinance to ensure Hector's termination.

Defendants are also incorrect that the claim should be dismissed merely because the County Judge instead of the Quorum Court carried out the firing. Bills of attainder commonly are self-executing legislative acts, but the Supreme Court has

never determined whether the legislature's enlistment of the executive in carrying out its punitive purpose precludes application of the Attainder Clause. "[T]he Supreme Court has not directly ruled either way on the applicability of the attainder ban to actions of executive and administrative agencies, and an argument can be made for analyzing each case functionally rather than structurally."

Dehainaut v. Pena, 32 F.3d 1066, 1070–71 (7th Cir. 1994). As *Crain* shows, the Eighth Circuit applies a functional, fact-based approach to attainder analysis, not the purely formal approach Defendants suggest.

Given the facts, Defendants are wrong to suggest that there was no legislative punishment. Assume that the ordinance had said that "the County Judge shall fire the Library Director if she does not adhere to the censorship resolution." In that hypothetical, there can be little doubt that the Quorum Court imposes punishment on Hector, even if the executive technically carried out the firing. So too here, where the Quorum Court realized its intent to remove Hector by taking firing power from the unhelpful Library Board and giving it to a County Judge who had made clear his intent to fire Hector.

In sum, a jury could find that the Quorum Court passed the ordinance with intent to punish Hector and with expectation that Judge Brumley would carry out that punishment. Though the ordinance may appear constitutional on its face, Hector has pled facts that establish legislative intent to punish her and a plausible claim that the ordinance is a bill of attainder as applied. The Court should deny Defendants' motion for partial judgment on the pleadings.

Dated: March 20, 2025

Respectfully submitted,

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