

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 19-12747

SILVIA COTRISS,

Plaintiff-Appellant,

versus

CITY OF ROSWELL,

JAMES RUSSELL GRANT,

Roswell Chief of Police; Individually and in his Official Capacity,

KATHERINE GAINES LOVE,

Roswell City Administrator; Individually and in her Official Capacity,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:16-cv-04589-WMR

Before ROSENBAUM, LAGOA, and ED CARNES, Circuit Judges.

PER CURIAM:

The City of Roswell, Georgia (the “City”), terminated Silvia Cotriss, a former sergeant for the City of Roswell Police Department (the “Police Department”), after a Police Department investigation concluded that Cotriss displayed a Confederate battle flag in front of her private home, sometimes with her police cruiser present. This appeal asks us to determine two separate issues: (1) whether Cotriss satisfactorily pleaded a void-for-vagueness claim under the Fourteenth Amendment; and (2) whether the City’s interest in running an efficient and effective Police Department outweighed Cotriss’s First Amendment speech interest in flying the flag.

After careful consideration and with the benefit of oral argument, we conclude that Cotriss failed to satisfactorily plead a void-for-vagueness claim under the Fourteenth Amendment. We therefore affirm the district court’s order denying Cotriss’s request for leave to amend her complaint. And on this record, and as applied to Cotriss, we also affirm the district court’s determination that the

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City's interest in efficiently and effectively running its Police Department outweighed Cotriss's interest in flying the Confederate battle flag, thereby allowing the City and the Police Department to discipline Cotriss based on her speech.

I. FACTUAL AND PROCEDURAL BACKGROUND

Cotriss began her law enforcement career for the City in 1996 and was a sergeant with the Police Department at the time of her termination on July 14, 2016. During Cotriss's employment, Police Department Chief James Russell Grant sought to foster relations with the local African-American community during, what he described as, a time of "tension in race relations between police departments and African-American communities throughout the country." As part of these efforts, Grant spoke during a service at Eagle's Nest Church to a predominately African-American congregation.

The next day, Christopher Wray, who attended the church service, emailed Grant with a complaint about an officer flying a Confederate battle flag. Wray's email stated:

I was in attendance at eagles nest church this past Sunday and actually sat two rows behind you as we discussed race relations and fostering empathy, understanding, and open lines of communication. I do appreciate your participation and willingness to keep that line of communication open. I am however disheartened when this Monday morning I am taking my daughter and son to their pre-school to see a

home on west Wiley bridge road flying a confederate flag with a Roswell Police department explorer parked in the driveway. It is very difficult to explain to my daughter that we should trust our police, but in the same sentiment if I were to ever be pulled over or some situation where my family needs the police to protect and serve. My first thought/fear is that it may be the officer proudly flying his/her confederate flag. I fully support our individual rights of free speech and how we express our beliefs as long as there is no harm done to anyone. In light of current race, police, and human relations this officer is representative of the police force tasked to protect and serve.

I hope this email finds you well and this officer will be apart [sic] of your cultural sensitivity and bias removal in the near future.

Wray's July 11, 2016, email prompted an internal investigation that ultimately resulted in Cotriss's termination. Captain Helen Dunkin of the Police Department's Office of Internal Affairs headed the investigation. Early into the investigation, Dunkin determined that the home referenced in the email belonged to Cotriss.

During the investigation, Dunkin interviewed Cotriss twice, first in person on July 12, 2016, and then telephonically on July 13, 2016. Over the course of these interviews, it was revealed that Cotriss had been on medical leave from the Police Department as of March 15, 2016, and that she was not in possession of her police

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cruiser on the date of Wray's email, as she had returned it to the Police Department months earlier for radio reprogramming. The police cruiser was therefore not parked outside her home. During the interviews, Cotriss stated that she had lived at her current address for about eleven years, that her neighbors were aware of her position at the Police Department, and that she parked her police cruiser in her driveway prior to surrendering it for reprogramming.

Cotriss admitted to Dunkin that there had been two Confederate-like battle flags separately displayed on a flagpole underneath an American flag at her home since about April or May 2015. So at least prior to Wray's email, a version of the Confederate battle flag had flown at Cotriss's home at points when Cotriss's police cruiser was visibly present. Cotriss explained that the first flag was purchased by her late-husband and resembled a Confederate battle flag with a motorcycle emblem in the center—a flag representing a group of motorcyclists who participate in "Bike Week." Then, in June 2016, when this first flag became worn, Cotriss's roommate removed it and, with Cotriss's permission, replaced it with a new Confederate battle flag that the roommate received from a neighbor. Cotriss explained she viewed the flags as a way to honor her "Southern heritage" and her late husband.

Cotriss offered to remove the flag after her initial interview with Dunkin, and between the first and second interviews, Cotriss, in fact, removed the flag. Then, after the second interview, Dunkin prepared a written report, charging Cotriss with engaging in conduct while off duty that was unbecoming and that resulted in

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