

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

William J. Kelly)	
)	
Plaintiff)	No.
)	
and)	
)	Judge:
Lori Lightfoot as Mayor of the City of Chicago and David Brown as Superintendent of Police of the City of Chicago)	
)	Magistrate:
Defendants)	
)	

COMPLAINT

NOW COMES, Plaintiff William J. Kelly, by and through his attorney Laura Grochocki, and complains of Lori Lightfoot, as Mayor of Chicago, and David Brown as Superintendent of Police of the City of Chicago as follows:

I. Introduction:

1. Plaintiff William J. Kelly, (“Kelly”) a nationally known journalist, brings this action against Lori Lightfoot (“Lightfoot”), and David Brown (“Brown”), to vindicate and obtain relief from the violation of Kelly’s rights under the First Amendment to the Constitution of the United States and the Fourteenth Amendment to the Constitution of the United States. Both Lightfoot and Brown have knowingly and intentionally violated the most important and cherished rights guaranteed by the Constitution of the United States, those of free speech, a free press, due process of law and equal protection.

2. They have done this for the most cynical and contemptible reason that can be imagined, to prevent Lightfoot from being questioned about their failures in the performance

of the public offices they currently occupy. Lightfoot desperately wants to prevent anyone from questioning her about her multiple failures in office or about the false statements she makes, at press conferences because she is standing for re-election and wants to keep her dismal performance as mayor of Chicago from being publically exposed and criticized.

3. Kelly is one of the only reporters in Chicago who regularly attends Lightfoot's press conferences and asks her hard questions about the rising violent crime in Chicago, the rising suicide rate among police officers, and her failure to have a plan to solve any of the problems that are confronting Chicago. Kelly is also one of the few reporter in Chicago who regularly attends Lightfoot's press commences who contradicts Lightfoot when she invariably makes false and misleading statements about the situation in Chicago. In fact on April 25, 2022 Tucker Carlson, who has the most watched network news shows in the United States, stated on the air that Kelly was "one of the very few journalists left in Chicago".

4. Because Kelly in his role as a reporter and journalist has caused great embarrassment for Lightfoot by asking the hard and embarrassing questions about her obvious failure as mayor, and because this has and would continue to hurt her chances of being re-elected, Lightfoot has directed Brown to revoke Kelly's City of Chicago press credentials which prevents Kelly from attending any more of her press conferences.

5. In order to do this Brown, following Lightfoot's instructions, directed a police officer assigned to Lightfoot's seventy (70) officer¹ strong security force to fabricate a report that Kelly had bumped into him on July 19, 2022. Brown then used this false report as a pretext to revoke Kelly's press credentials on August 8, 2022. In fact the entire episode where this

1. Lightfoot has a security detail of 70 officers plus 20 private security bodyguards, giving her a larger dedicated security force than any US senator, representative, or US Supreme Court Justice.

bump was falsely alleged to have taken place was videotaped by Kelly and this video shows no such bump took place.

6. This is blatantly unconstitutional. A public official may not target particular news media organizations or journalists for exclusion from access made generally available to other media. The First Amendment guarantees the freedoms of speech and of the press, and those rights are incorporated against the states. The Fourteenth Amendment also guarantees citizens due process and equal protection of the laws, including equal treatment by their government, and due process, which requires fair notice and consideration before the government may revoke access.

7. All four of those clauses are violated in this case as a government official selectively denies access to a journalist based on the content of his speech. See *Anderson v. Cryovac, Inc.*, 805 F.2d 1, 9 (1st Cir. 1986); *Am. Broad. Cos. v. Cuomo*, 570 F.2d 1080, 1083 (2d Cir. 1977); *Sherrill v. Knight*, 569 F.2d 124, 129 (D.C. Cir. 1977). Twice in recent years federal courts have struck down similar revocations of press passes for other reporters. *CNN v. Trump*, No. 1:18-cv-02610-TJK, Dkt. 20, Nov. 16, 20181 (D.D.C.); *Karem v. Trump*, 404 F. Supp. 3d 203, 218 (D.D.C. 2019).

8. Kelly therefore brings this suit under 42 U.S.C. §1983 seeking declaratory and injunctive relief.

II. Jurisdiction and Venue:

9. This case raises claims under the First and Fourteenth Amendments of the United State Constitution and 42 U.S.C. § 1983. The Court has subject-matter jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1343.

10. Venue is appropriate under 28 U.S.C. § 1391(b)(1) and (2) because the

Defendants are citizens of Illinois and reside in the Northern District of Illinois and a substantial portion of the events giving rise to the claims occurred in the Northern District of Illinois.

III. The Parties:

11. Plaintiff William Kelly (“Kelly”) is a career journalist who works and lives in Cook County, Illinois. Kelly is currently a paid contributing reporter for Daily Mail. Kelly has worked as a journalist for Newsmax, Daily Mail, and has appeared on Tucker Carlson Tonight, FOX News, and has had his content published by New York Post, Washington Examiner, Daily Mail, FOX News, Forbes, Yahoo, MSN, Daily Caller, Townhall.com, the Independent, and numerous blogs and radio show websites and social media pages. For ten (10) years prior to August 8, 2022 Kelly was a credentialed by the City of Chicago as a reporter.

12. Defendant Lori Lightfoot (“Lightfoot”) is the Mayor of the City of Chicago, who is at the end of her first term as mayor and will be standing for re-election in March 2023.

13. Defendant David O. Brown is the Superintendent of Police of the City of Chicago. He was hired by Lightfoot and can be fired by her at her sole discretion.

IV. Factual Allegations:

14. Plaintiff incorporates and re-alleges all of the factual allegations contained in paragraphs one (1) through thirteen (13) of this complaint as paragraph fourteen (14) of this complaint.

15. For the past twelve (12) months, Kelly attended most of Mayor Lightfoot's press conferences. First, he attended them on behalf of Newsmax, and then he attended the news conferences and produced articles and video content which was contributed to various national outlets such as Daily Caller.

16. Most of the video content of his questions to Lightfoot's have gone “viral” with

millions of views and thousands of comments. Outlets where Kelly's content have appeared include Tucker Carlson Tonight, the Daily Mail, FOX News, Forbes, Yahoo, MSN, New York Post, Washington Examiner, Daily Caller, Townhall.com, the Independent, and thousands of blogs and radio show websites and social media pages.²

17. Kelly is currently a paid contributing reporter for Daily Mail.

18. Kelly began attending Mayor Lightfoot's press conferences on June 25, 2021. He has attended about a dozen of her press conferences in the last 12 months, including: June 25, 2021, July 2, 2021, October 17, 2021, February 23, 2022, March 4, 2022, April 20, 2022, May 25, 2022, June 23, 2022, July 18, 2022, and July 19, 2022.

On June 25, 2021, Kelly asked Lightfoot:

"My follow up question is simply this many residents in Chicago feel that you've lost control of the city. Now it appears as though you've lost control of the Chicago City Council. Do you owe an apology to the victims of violent crime, the 1000s of unsolved shootings and murders and stabbings and random stabbings in the downtown and the South side and the north side and the west side. Do you know do you owe these people any apology?"

Lightfoot answered: "Once again, sir, I asked you to get your facts right. Crime is not out of control in our city. In fact, crime is on the decline. All our major indices showed a decline in in crime and our homicide sighs and our shootings year over year are down. That's a fact, sir. And you, sir, I was polite and allowed you to spew your rhetoric, which is offensive to me and others, but I'm trying to be polite and professional and answer your question. But if you want to write your own narrative and irrelevant to what I'm going to say and what the facts are, then we'll just move on to the next reporter."

This exchange was picked up by local and national media outlets, as well as on social media, where Lightfoot's contention that crime in Chicago was "on the decline" was quickly shown to be a blatantly false using the publically available statistics. This caused Lightfoot great embarrassment and angered her.

2. Examples are: Tucker Carlson: https://www.youtube.com/watch?v=JMM441B1x_s and Fox News: <https://www.foxnews.com/media/reporter-chicagos-lightfoot-re-election-harm-caused>

19. On July 2, 2021. Kelly's question to Lightfoot was: "Comparing last night's thirty plus shootings to last year when we had an out-of-control race riot, in which almost every member of the city of Chicago was in fact, a victim seems to be playing with those numbers just a little. Last night. I think you were on Chicago tonight you said that 99.9% of the criticism of you is because you're a black woman. Do you honestly believe that, considering the way the City Council, is made up of many black women who criticize you? Do you really believe that the criticism of you is 99.9% because you're a black woman?" In her response, Lightfoot did not answer Kelly's question and instead told Kelly that she had him investigated and highlighted his affiliation with Newsmax.

20. On March 23, 2022 at Lightfoot's press conference her press secretary wouldn't let Kelly hold the microphone when all the other reporters are allowed to hold the microphone when they were asking questions. Kelly asked about a press release issued by Lightfoot's office crime is down since 2021, a record year of homicides in Chicago, when in fact, crime is up 36% citywide since last year. Kelly asked Lightfoot if she was being dishonest or just incompetent. Kelly also asked Lightfoot about the record number of carjackings in Chicago, which were up 135% in 2020 and up an additional 43% in 2021. Rather than answer Kelly's question Lightfoot said that Kelly is the "rudest person she's ever met." Kelly replied to that comment by telling Lightfoot that he "thinks the carjackers are ruder than I am." At the end of the press conference, two of Lightfoot's staffers tried to intimidate Kelly and one of Lightfoot's bodyguards said that the only people who watch Kelly's reporting are "old white people."

21. At the April 20, 2022 press conference Kelly asked Lightfoot the following: "Mayor Lightfoot, every time you have a press conference, you say crime is down. The economy is booming. Well, that's not true." Lightfoot then stated: "But get to your question, sir." Kelly

continued: “Across the street, we had a police officer on duty, the victim of a hit and run. We have Michigan Avenue the Magnificent Mile now referred to as the mile of fear. The Water Tower Place has thrown the keys back to the lender, they say they don't want to be in Chicago anymore. Real Chicagoans are asking me how you could possibly even consider running for re-election as mayor of the city of Chicago after all the harm you've caused?” Lightfoot responded: “I disagree with you fundamentally. And I don't think I need to address any and dignify your comments. One second further. Next question.” Lightfoot visibly upset and was shaking with rage at Kelly.

22. On information and belief when Lightfoot left the April 20, 2022 press conference and got into her car she had a complete melt-down, screaming, yelling and kicking with rage at Kelly.³ The April 20, 2022 press conference constituted the point after which Lightfoot exhibited an unhinged hatred of Kelly.

23. At her May 25, 2022, press conference Lightfoot had a meltdown in response to a question by Kelly and threatened to have Kelly escorted out by the police when he attempted to ask Lightfoot a question. Kelly asked Lightfoot the following: “Will you recall, resend your violent tweet, to call to arms? Lightfoot answered a acting as if she was talking to some third person, “The more stupid he sounds.” Kelly then asked again: “Will you rescind your call to arms tweet in the light of the mass shooting in downtown Chicago. So as stupid as you think that may be?” In response Lightfoot stated, sometimes yelling: “So let me just let me just deconstruct the series of lies that you just spewed as you do every time you come to one of my press

3. Kelly's information and belief is corroborated by Lightfoot's past behavior such as her infamous email to her staff (disclosed on June 14, 2021 by Tribune reporter Gregory Pratt), reported on nationwide as “deranged”, where Lightfoot filled a page by repeating the phrase “I need office time every day” over and over, as well as her public chant of “Fu*k Clarence Thomas”, and her “Call to Arms” tweet, in response to the US Supreme Court Opinion in Dobbs v. Jackson.

conferences.... So you, you you, you're gonna let me speak sir. You're not going to talk over me. That's not the rules here in this press conference. And if you don't want to abide by those rules, you can take your nonsense someplace else, because I am about follow up with you. I'm not finished. Let me just finish and the nonsense that you're spewing that tourists aren't coming to our city. All you have to do is walk up and down Michigan Avenue.⁴ No, sir. **No, sir. No, sir, you will stop speaking. You will stop speaking. You're you're, you're full of crap. And that's the nicest thing that I can say. I will not let you spoil this moment. I will not let you if you do not If you do not stop. Harold. Harold, if you do not stop you will be I will ask you to leave and I will make sure that the police take you out of here.** You will not act like this, sir. You can talk and say whatever you want on the street, but in here in my press conference, you will not act like that, sir. And let me be clear with you. I'm not patting myself on the back. I'm not doing a victory lap. What I'm saying is that after 30 years of futility, the men and women of this city will have good paying jobs that they can build a future on. What I'm also saying is that the taxpayers of the city will not have to be called upon again to shore up our police and fire pension. Now you don't want to hear the facts because you can't handle the truth sir, but that is the truth. Next reporter.” After the press conference, Lightfoot’s press secretary, Cesar, calls Kelly a “fucking animal” on video.

24. One of Kelly’s questions to Lightfoot at her press conference on April 20, 2022, which Kelly and other news media attending the press conference recorded on video, became a national news story which embarrassed Lightfoot and her chances of being re-elected, which greatly angered her. (See: <https://www.foxnews.com/media/reporter-chicagos-lightfoot-re->

4. This was yet another publically stated false statement by Lightfoot as CBS News was reporting that tourism was down. <https://www.cbsnews.com/chicago/news/crime-chaos-downtown-keeping-tourists-away-from-chicago/>

[election-harm-caused](#))

25. On June 7, 2022, Lightfoot announced that she would be running for re-election as Mayor of Chicago.

26. At her June 22, 2022 press conference Lightfoot lashed out at Kelly for appearing on Fox News. In response to Kelly's question about parts of Chicago being a "no go zone" Lightfoot blamed "right wing media" for Chicago's murder and crime rate. Lightfoot went on to say that it was right wing media that has made Chicago a "no-go zone" for the world. She told Kelly that he can't criticize her as Mayor unless he "walks in her shoes." In response to Kelly's second question in which he asked her to again retract her violent "call to arms" tweet in light of the assassination attempt on Supreme Court Justice Brett Kavanaugh, Lightfoot responded that that was "just a conspiracy theory", even though the assassin had been arrested and her tweet was still posted on her Twitter page.

27. At Lightfoot's July 19, 2022 press conference, when Kelly attempted to ask a question Lightfoot told Kelly to wait his turn to ask a question and she then continued to speak with other reporters. She said: "Sir, just a moment. I'm talking and you haven't been called on, you know the rules, you'll get called on when it's your turn. Thank you." A few moments later Lightfoot abruptly ended the press conference without letting Kelly ask any questions and she walked off. Kelly attempted to follow her to ask his question reminding Lightfoot that she had promised to call on him for a question and shouting out his question as they went. When Kelly was about 20 feet away from Lightfoot her security guard repeatedly grabbed Kelly to prevent him from asking his question. At no time did Kelly bump or otherwise cause himself to come into physical contact with any of Lightfoot's security guards. Kelly videotaped the entire episode.

(Exhibit A)

28. On July 20, 2022 at around 3:00 p.m. Kelly went to attend Lightfoot's press conference which was scheduled for that time at City Hall. When he attempted to gain entry by showing his press credentials Kelly was turned away despite having valid press credentials which were recently renewed by the Chicago Police Departments Office of News Affairs. Kelly was accused by an officer in Lightfoot's security detail of having expired credentials or doctoring the credentials. Kelly's Chicago press credentials had a expiration date of June 2024 sticker on it which was placed there by the Chicago Police Department's Office of News Affairs. Nobody attempted to check with the Chicago Police Department's Office of News Affairs to see if Kelly's credentials were valid, and they just refused him entry into the press conferences. The entire episode was videotaped by Kelly. **(Exhibit B)**

29. On August 3, 2022 an attorney sent a letter to the City of Chicago on Kelly's behalf inquiring why Kelly was denied access to Lightfoot's press conference on July 20, 2022, despite the fact that Kelly had valid City of Chicago press credentials.

30. On August 8, 2022 Kelly received a letter from Defendant Superintendent of Police David Brown ("Brown") which revoked Kelly's media credentials falsely saying that Kelly had committed a battery by bumping a security officer at Lightfoot's July 19, 2022 press conference. **(Exhibit C)** Kelly had videotaped this entire episode. **(Exhibit A)**

31. The claim that Kelly had bumped a security officer at Lightfoot's July 19, 2022 press conference was a pretext for the revocation of Kelly's press credentials. In fact, Kelly's press credentials were revoked because of Lightfoot's hatred of Kelly and her desire to keep Kelly from asking her hard questions about her failures as Mayor of Chicago, her failure to have any plan to fight the rising rate of violent crime in Chicago, and other such matters. Lightfoot knew that if Kelly could continue to ask her those questions it would severely hinder her ability to be

re-elected as Mayor. The problem was not because there was anything wrong with Kelly's questions, but because Lightfoot did not have any answers to his questions.

32. Kelly is currently a paid contributing reporter for the Daily Mail, and the revocation of his Chicago press credentials impedes his ability do his job.

33. There is no adequate remedy as law for the aforesaid violations of Kelly's rights under the First and Fourteenth Amendment to the Constitution of the United States.

34. The Chicago Police Department General Order on Press Credentials is General Order G09-02-01. (**Exhibit D**) This is the Order referred to by Brown in his letter revoking Kelly's press credentials. However, General Order G09-02-01 is unconstitutional and in violation of the First and Fourteenth Amendments to the Constitution of the United States for the following reasons:

- It does not specify what qualifies as a journalist and therefore attempts to regulate the press in violation of the First Amendment;
- It does not specify what the rules are or what is a violation of rules – a due process violation as a person of reasonable intelligence cannot know what is against the rules in advance;
- It does not specify anything about revocation of the credentials except that the press credentials can be revoked for abusing or misusing the credentials, and even then does not state what constitutes abuse or misuse which is a due process violation as a person of reasonable intelligence cannot know what is against the rules in advance;
- There is no right of appeal from any revocation, which constitutes a due process violation;
- The entire General Order G09-02-01 is unconstitutional as it purports to regulate press access within the city in violation of the First Amendment, and it is merely a police general order entered outside the legislative or rule making procedures of the city council. It is a dictate not a constitutionally adopted statute or rule.

COUNT I

By targeting Kelly for exclusion from generally available information and press conferences, Defendants are violating Plaintiffs' First Amendment right to freedom of the press.

35. The allegations contained in all preceding paragraphs are incorporated herein by reference.

36. The right to freedom of the press in the First Amendment has been incorporated to and made enforceable against the states through the Fourteenth Amendment guarantee of Due Process. *Near v. Minnesota*, 283 U.S. 697, 707 (1931).

37. Lightfoot's targeted exclusion of Kelly from press conferences and other materials otherwise generally available to the news media violates the right of equal access inherent in the freedom of the press.

38. Kelly is entitled to an injunction under 42U.S.C. § 1983 ordering Defendants to immediately end their pattern of behavior barring her from equal access to information and press conferences on the same basis as her colleagues in the press corps.

COUNT II

By targeting Kelly for exclusion from generally available information and press conferences, Defendants are violating Plaintiffs' First Amendment free speech right.

39. The allegations contained in all preceding paragraphs are incorporated herein by reference.

40. Lightfoot's decision to revoke Kelly's credentials, which was effectuated by Brown, is actually based on Kelly's asking her questions that are directed at her failures as mayor, and therefore it is retaliation for the content of his speech and discrimination based

on the critical editorial viewpoint Kelly expressed.

41. The allegations that Kelly bumped the officer it is in fact a pretextual reason to remove his press credentials after his tough, uncomfortable, but fair questions about Lightfoot's failures as mayor, and therefore is in retaliation for the content of Kelly's speech and discrimination based on his reporting.

42. Retaliating against a journalist based on his editorial stances and tough questions, preventing her from speaking or asking questions in press conferences, violates the First Amendment's free speech clause. *See United Teachers of Dade v. Stierheim*, 213 F. Supp. 2d 1368 (S.D. Fl. 2002). The government may not require journalists to hold a particular point-of-view or to remain impartial to the government's actions. Nor may the government forbid journalists from working for a news media outlet with a particular editorial view, or from attending a rally, parade, march, or demonstrations where a particular point-of-view is being expressed.

43. Lightfoot and Brown, by revoking Kelly's press credentials, are putting an unconstitutional condition, making editorial silence or agreement with Lightfoot a prerequisite for continued access.

COUNT III

By targeting Kelly for exclusion from generally available information and press conferences, Defendants are violating Plaintiff's Fourteenth Amendment right to equal protection of the laws.

44. The allegations contained in all preceding paragraphs are incorporated herein by reference.

45. The equal protection clause requires that a state government grants equal

treatment to its citizens and not discriminate amongst them, especially in respect of their fundamental rights. In this context, it requires that all journalists have equal access to information generally available to the news media. *See McCoy v. Providence Journal Co.*, 190 F.2d 760, 766 (1st Cir. 1951); *Getty Images News Servs. v. Dept. of Defense*, 193 F.Supp.2d 112 (D.D.C. 2002); *Ludtke v. Kuhn*, 461 F. Supp. 86 (S.D.N.Y. 1978).

46. The targeted exclusion from equal access of Kelly by Defendants denies him the equal protection of the laws to which he is entitled.

COUNT IV

By targeting Kelly for exclusion from generally available press information and conferences without clear standards or fair consideration, Defendants are violating Plaintiffs Fourteenth Amendment right to due process of law

47. The allegations contained in all preceding paragraphs are incorporated herein by reference.

48. The due process clause requires that a state government provide all journalists with prior notice of the standards of professional conduct by which it will judge their press-credentialing. When a government official decides to revoke a press credential, he must extend fair notice and consideration based on those standards before entering a final decision. *Sherrill*, 569 F.2d at 130-31; *Karem*, 404 F. Supp. 3d 203.

49. Kelly was not provided with prior notice of the standards or policies used by Lightfoot and Brown's Office for press credentialing, email gestured at an amorphous standard with no opportunity of review before a final decision was entered.

PRAYER FOR RELIEF

Plaintiff William Kelly respectfully request that this Court:

- a. Enjoin Mayor Lori Lightfoot and Superintendent David Brown from excluding him from any of press conference, stopping him from asking questions and from preventing him from receiving all available information;
- b. Declare that retaliating against William Kelly by barring him from Lori Lightfoot's press conferences based on the content of his speech and views violates the First Amendment's free speech clause;
- c. Declare that the targeted exclusion of William Kelly from Lightfoot press conferences violates the First Amendment's free speech and free press clauses, and the Fourteenth Amendment's equal protection clause;
- d. Declare that the exclusion of William Kelly was made without due process of law in violation of the Fourteenth Amendment;
- e. Declare that the exclusion of William Kelly violates his editorial independence in violation of the First Amendment's free press clause;
- f. Award Plaintiff his costs and attorneys' fees under 42 U.S.C. § 1988; and
- g. Award any further relief to which Plaintiffs may be entitled,

Respectfully Submitted

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