

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

ROBERTA IMOGENE JONES,)	
)	
Plaintiff,)	
)	CLASS ACTION
v.)	
)	CIVIL ACTION NO. <u>1:13-CV-156(WLS)</u>
GRADY COUNTY, Georgia,)	
)	JURY TRIAL DEMANDED
JUDGE J. WILLIAM BASS, SR.,)	
Grady County State Court Judge,)	
in his official and individual)	
capacities,)	
)	
Defendants.)	

COMPLAINT

Plaintiff Roberta Imogene Jones, on behalf of herself and the class alleged herein (“Plaintiff”), by counsel, states as follows for her Complaint:

I. PRELIMINARY STATEMENT

1. This is an action to stop Defendants from collecting substantial sums in unauthorized “administrative costs” from citizens who come before the Grady County State Court, without any statutory or legal basis for doing so. Plaintiff asks this Court to order Defendants to return money that Defendants wrongfully collected from Plaintiff and other putative class members.

2. For at least seven years, Judge J. William Bass, Sr. required persons convicted of misdemeanors in Grady County to pay large and undefined “administrative costs” to the County, in addition to statutorily authorized fines and surcharges. In many cases, these “administrative costs” were in the amount of \$700 or \$800 per defendant. The costs were imposed on hundreds of persons convicted of a range of offenses, including disorderly conduct, speeding, driving without a license, and other offenses.

3. Judge Bass and Grady County created these “administrative costs” out of whole cloth as a money-making mechanism for the County. *From June 2011 until July 2012 alone, the County collected about \$296,711 in unauthorized “administrative costs” from defendants, many of whom are indigent.*

4. The Grady County State Court has no legal authority to impose such costs on defendants, and Grady County has no authority to retain these illegally collected monies. There is no state statute, court rule, local authority, or any other authority permitting the Grady County State Court to levy these costs.

5. The State Court’s “administrative costs” bear no relationship to any defendant’s particular offense, and the amount of such costs is set in the unbridled discretion of the court. These costs are assessed for the purpose of making money for the County. In a letter to the Grady County Commission delivered in July

2012, Judge Bass bragged about his efforts to make money from the bench, stating that he “work[ed] hard to maximize what get’s turned over,” [sic] and that “[t]he judge must go beyond the call of the job to produce that much for the county.”

(Exhibit 1.) Judge Bass requested a substantial raise in his personal salary based on his efforts to “maximize” county revenues. (Id.)

6. Through its pervasive practice of collecting unauthorized costs in the State Court, Defendants have taken substantial sums of money from Plaintiff and hundreds of others.

7. On March 18, 2013, Georgia’s Judicial Qualifications Commission (JQC) issued a Public Reprimand to Judge Bass for numerous ethical violations, including, but not limited to, assessing unauthorized “administrative costs” to criminal defendants and seeking a raise in his personal salary based on the amount of money he made for the County. (Exhibit 2.)

8. Defendants have made no effort to return the “administrative costs” they collected to Plaintiff, the putative class members, or any other person.

9. Defendants’ policy and practice of requiring Grady County State Court defendants to pay “administrative costs” violates numerous provisions of the U.S. Constitution and the Georgia Constitution. Further, this policy and practice violates Georgia law and constitutes conversion of Plaintiff’s and putative class

members' money. Plaintiff asserts claims for violation of her civil rights under 42 U.S.C. § 1983 and Georgia's conversion statute. In addition, she seeks equitable restitution of her money, with interest at statutory rates.

10. Plaintiff brings this action on behalf of herself and all persons who paid "administrative costs," not permitted as statutorily authorized fines and surcharges, pursuant to an order of the Grady County State Court since September 25, 2009. Plaintiff asks this Court to order Defendants to return money that Defendants have wrongfully collected from Plaintiff and other putative class members, with interest at statutory rates.

II. JURISDICTION AND VENUE

11. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and § 1343(a)(3) and (4) because the action arises under 42 U.S.C. § 1983 and the Fourteenth Amendment to the United States Constitution. Plaintiff's request for declaratory and injunctive relief is authorized by 28 U.S.C. §§ 2201 and 2202. This Court has supplemental jurisdiction over Plaintiff's state law claims under 28 U.S.C. § 1367 because they are so related to the federal claims that they form part of the same case or controversy under Article III of the United States Constitution.

12. Venue is proper in this District under 28 U.S.C. § 1391(b)(1) because at least one Defendant resides in this judicial district. This District also is an appropriate venue for this action under 28 U.S.C. § 1391(b)(2) because all or a substantial part of the events or omissions giving rise to the claims asserted herein occurred in this judicial district.

III. PARTIES

A. Plaintiff

13. Plaintiff Roberta Imogene Jones is a resident of Statesboro, Georgia. She works nights at a poultry processing plant. In 2012, Ms. Jones was a resident of Thomasville, Georgia. On July 9, 2012, Ms. Jones pled guilty to Driving Under the Influence, First Offense, in the State Court of Grady County. Ms. Jones could not afford a lawyer and appeared before Judge Bass without counsel. Judge Bass sentenced Ms. Jones to one year of probation at a cost of \$44 per month and imposed a fine – “including all surcharges and add-ons” – of \$300. In addition, Judge Bass ordered Ms. Jones to pay \$700 in “administrative costs” to the County. While Judge Bass had authority to order payment of the \$300 fine, he did not have authority to order payment of any “administrative costs.” Ms. Jones has paid all fines, surcharges and costs related to her conviction.

B. Defendants

14. Defendant Grady County received “administrative costs” that were unlawfully collected from Plaintiff and putative class members by the Grady County State Court. Grady County officials have deposited the “administrative costs” collected from Plaintiff and others into the County treasury. Grady County has caused, authorized, condoned, ratified, approved, and/or knowingly acquiesced in the illegal policy of charging Grady County State Court defendants “administrative costs,” as described in this Complaint. As a result, Grady County has been unjustly enriched at the expense of Plaintiff and putative class members.

15. Defendant J. William Bass, Sr. is the Judge for the Grady County State Court, and is a resident of Grady County, Georgia. Judge Bass is directly responsible for the daily management, administration, policies, and operation of the Grady County State Court. Judge Bass caused, created, authorized, condoned, ratified, approved, and/or knowingly acquiesced in the illegal policy of charging Grady County State Court defendants “administrative costs,” as described in this Complaint. Judge Bass is sued in his official capacity for declaratory and equitable relief and individual capacity for actual and punitive damages.

IV. CLASS ACTION ALLEGATIONS

16. Plaintiff brings this class action pursuant to Rules 23(a) and (b)(2) and/or (b)(3) of the Federal Rules of Civil Procedure on her behalf and on behalf of a class similarly situated and affected during the pendency of this lawsuit and in the future. The class is defined as all persons who paid “administrative costs,” not permitted as statutorily authorized fines and surcharges, pursuant to an order of the Grady County State Court since September 25, 2009.

17. Plaintiff meets the requirements of Rule 23(a) in that:

(a) The class is so numerous that joinder of all members is impracticable.

The class consists of hundreds or thousands of persons who paid illegal “administrative costs.” To give a partial example of the numbers at issue, between July 2011 and July 2012 alone, about 540 State Court defendants paid “administrative costs” totaling approximately \$296,711. The total amount unjustly taken from the class will, on information and belief, be consistent with this smaller sample.

(b) There are questions of law and fact common to the class concerning the constitutionality and lawfulness of the policy of charging Grady County State Court defendants “administrative costs” beyond those statutorily authorized. While the amount of the “administrative costs” imposed on each

class member may vary, the absence of any lawful basis for assessing the costs presents a question of fact and law common to all class members.

(c) The policy challenged in this action applies with equal force to the named Plaintiff and all members of the class so that the claims of the Plaintiff are typical of those of the class. All class members have paid “administrative costs” which were ordered in violation of law and unjustly enriched Grady County.

(d) The named Plaintiff will fairly and adequately protect the interests of the class. The Plaintiff possesses the requisite personal interest in the subject matter of the lawsuit and possesses no interests adverse to other class members. The Plaintiff is representative of the class of all persons who have been charged “administrative costs” in the Grady County State Court in violation of law. The Plaintiff is represented by attorneys at the Southern Center for Human Rights, a nonprofit organization with extensive experience in complex class action litigation. Plaintiff’s counsel have the resources, expertise, and experience to effectively prosecute this action.

18. Plaintiff meets the requirements of Rule 23(b)(2) in that the Defendants acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.

19. Plaintiff meets the requirements of Rule 23(b)(3) because common questions of law and fact predominate over questions affecting individual class members. A class action is superior to any other method of adjudicating this dispute because hundreds of people paid unauthorized “administrative costs” demanded by Defendants, and few are likely to have the time, legal acumen, and resources to pursue a reimbursement of these costs on their own. In the absence of a class action, the County will be permitted to keep money exacted from class members in violation of their constitutional rights.

V. STATEMENT OF FACTS

A. Defendants’ Assessment of Unauthorized “Administrative Costs”

20. The State Court of Grady County is located in Cairo, Georgia, and has jurisdiction over the trial of criminal cases below the grade of felony. *See* O.C.G.A. § 15-7-4. Judge J. William Bass, Sr. has presided over the State Court of Grady County since 2002.

21. Shortly after being elected to office, Judge Bass came up with an idea to use the Grady County State Court to make money for the County. Judge Bass decided that in addition to ordering defendants to pay statutorily authorized fines and surcharges, he would require defendants who appeared before him to pay a substantial additional “administrative cost” – an amount not statutorily authorized as fines or surcharges. In many cases, these “administrative costs” were assessed in the amount of \$700 or \$800 per defendant.

22. The Court’s policy of charging “administrative costs” has applied to virtually all defendants who come before the State Court, whether they are convicted of driving without a license, no proof of insurance, reckless conduct, DUI, or any other offense. Over the years, thousands of defendants paid “administrative costs.” *Between July 2011 and July 2012 alone, about 540 State Court defendants paid “administrative costs” totaling approximately \$296,711. The average administrative cost was \$613 for this period.* The total amount of Grady County’s unjust enrichment at class members’ expense will, on information and belief, be consistent with this sample.

23. The Court’s policy of charging “administrative costs” is not codified in any written document or authorized by any state or local authority. There is no state statute authorizing the State Court or County to collect “administrative costs.”

Through this illegal practice, the Defendants collected hundreds of thousands of dollars in unauthorized costs, unjustly enriching the County.

24. Since the costs were not authorized by law, the Court created a special system to facilitate the collection of “administrative costs.” Judge Bass revised the State Court’s existing sentencing disposition forms by adding a category for the unlawful “administrative costs” that was distinct and separate from the category for punitive fines. When entering the “administrative costs” into the Court’s computer system, the Court’s clerks improperly categorized the “administrative costs” as “restitution.” This designation ensured that the Court disbursed the “administrative costs” to the County first, before other monies collected from defendants were disbursed to the State.

25. Judge Bass made clear that the “administrative costs” served two functions: (a) to raise revenue for the County; and (b) to provide a basis for an increase in his own personal salary.

26. On or around July 3, 2012, Judge Bass delivered a document to the county governing authority requesting a salary increase from his current salary of \$40,000 to \$60,000. (Exhibit 1.) This document stated that Judge Bass’s proposed salary increase was warranted by the amount of funds he caused to be improperly collected by the State Court. The document stated in pertinent part:

I need my salary raised to \$60,000 per year. Why should you do it?
This court, because of the extra time and energy that I spend, contributes more than \$350,000 per year to the county. Although I don't get concerned about 'raising money for the county', I work hard to maximize what get's turned over. At \$40,000 per year, *the next judge will not be able, or willing, to do that. The judge must go beyond the call of the job to produce that much for the county.* To keep the income at that standard, the judge has got to be able to devote the time and energy required.

(Exhibit 1.) (emphasis added).

27. The JQC put Judge Bass on notice that he had no authority to collect "administrative costs." Judge Bass nevertheless continued to collect "administrative costs" against defendants who appeared in his courtroom.

B. Roberta Imogene Jones

28. Roberta Jones was arrested for Driving Under the Influence, First Offense, and related charges in Grady County, Georgia. On July 9, 2012, Ms. Jones appeared before Judge Bass in the Grady County State Court where she pled guilty to one misdemeanor count of DUI.

29. Ms. Jones could not afford a lawyer and represented herself. Judge Bass sentenced Ms. Jones to one year of probation at a cost of \$44 per month and imposed a fine – "including all surcharges and add-ons" – of \$300. In addition, Judge Bass ordered Ms. Jones to pay "administrative costs" in the amount of \$700. While Judge Bass had authority to order payment of the \$300 fine, he did not have

authority to order payment of the \$700 in administrative costs. Ms. Jones has paid all fines, costs and charges related to her case.

C. Judicial Qualifications Commission (JQC) Proceedings Against Judge Bass

30. On December 14, 2012, the JQC filed a Notice of Formal Proceedings, charging Judge Bass with violations of the law and the Code of Judicial Conduct, including, but not limited to: (a) appointing his son to serve as the Grady County State Court judge in his absence; (b) engaging in inappropriate, ex parte communications over Facebook regarding a party who was to appear before him; (c) asking members of the audience to vote for him in an upcoming election from the bench; (d) telling an attorney in court not to return because the attorney donated to his opponent's election campaign.

31. The JQC further charged Judge Bass with ethical violations relating to his assessment of "administrative costs." Specifically, the JQC charged Judge Bass as follows:

A. You violated Canon 2A ("judges shall respect and comply with the law") and/or Canon 3B ("judges should be faithful to the law") of the Code of Judicial Conduct when you, without legal authority, ordered the collection of funds as "Administrative Costs" from criminal defendants.

B. You violated Canon 2B ("judges shall not lend the prestige of judicial office to advance their private interests") and/or Canon 2A ("judges shall act at all times in a manner that promotes public confidence in the integrity and

impartiality of the judiciary”) of the Code of Judicial Conduct when you wrote and, on or about July 3, 2012, delivered a document to the county governing authority requesting a salary increase. . . . This document gave the appearance that your salary increase was warranted by the amount of funds you caused to be improperly collected by State Court.

C. You violated Canon 2A (“judges shall respect and comply with the law”) and O.C.G.A § 16-10-1 (Oath of Office), when you illegally charged costs and exacted payment from defendants, without legal authority, for the benefit of the county and you, as the State Court Judge of Grady County, in order to “maximize” the collection of revenue which the county was not otherwise entitled to receive from defendants.

(Exhibit 3.)

32. On March 6, 2013, the JQC held an ethics trial on the above-stated charges.

33. On March 18, 2013, pursuant to an “agreed upon” disposition of the JQC investigation and trial, the JQC issued a Public Reprimand to Judge Bass in which it found:

You have admitted that without any legal authority, you ordered the collection of funds, which you called, “Administrative Costs” from criminal defendants and illegally charged those costs and exacted payment from defendants in what appeared to be an effort to “maximize” the collection of revenue which the county was not entitled to receive.

(Exhibit 2.)

34. Even after receiving a Public Reprimand, Judge Bass again sought to impose unauthorized fees on criminal defendants as recently as August 2013.

D. Defendants' Conduct Is Unauthorized and Illegal

35. There is no statutory or other legal authority for Defendants to charge Plaintiff and others "administrative costs." Defendants' policy and practice constitutes unlawful conduct deliberately undertaken by Defendants to unjustly enrich the County.

36. In each and every instance set forth above, Defendants acted intentionally, with malice, and with actual intent to cause injury in the performance of their official functions. Defendants knew or should have known that confiscating funds, without any statutory authority, violated Plaintiff's constitutional rights. The actions set forth above were taken by Defendants under color of state law.

VI. CLAIMS FOR RELIEF

COUNT ONE

**VIOLATION OF DUE PROCESS CLAUSE
OF FEDERAL AND STATE CONSTITUTIONS**

37. Plaintiff incorporates herein and re-alleges, as if fully set forth herein, all factual allegations of the preceding paragraphs.

38. By deliberately requiring Plaintiff to pay “administrative costs” without any legal authority permitting such costs or any measuring stick to determine the amount of such costs, Defendants deprived Plaintiff of money without due process of law in violation of Plaintiff’s constitutional rights. *See* U.S. Const. amend. XIV, § 1; Ga. Const. art. 1, § I, ¶¶ I and II.

39. The State Court’s “administrative costs” are further impermissible under the Fourteenth Amendment Due Process Clause because Judge Bass’s substantial financial interest in leveraging county revenue into a higher salary is the kind of “interes[t] that tempt[s] adjudicators to disregard neutrality.” *See Caperton v. A.T. Massey Coal Co., Inc.*, 556 U.S. 868, 878 (2009). As a result of that interest, each instance in which the unauthorized costs were assessed violated a person’s due process right to be sentenced by an impartial adjudicator. *See Ward v. Village of Monroeville*, 409 U.S. 57, 60-62 (1972).

40. In each and every instance set forth above, Defendants acted intentionally, with malice, and with actual intent to cause injury in the performance of their official functions. Defendants knew or should have known that confiscating funds, without any statutory authority, violated Plaintiff's constitutional rights. The actions set forth above were taken by Defendants under color of state law.

41. As a direct and proximate result of Defendants' illegal policy and practice, Defendants unjustly enriched themselves by depriving Plaintiff and others of their money. Defendants are jointly and severally liable for the violations of Plaintiff's rights, and the harm they suffered as a result, because each Defendant either personally participated in the actions or failures to act, or implicitly authorized, approved, or knowingly condoned or failed to remedy the wrongs at issue.

42. Defendants' above-described actions were willful, deliberate, and malicious, and involved reckless or callous indifference to Plaintiff's rights and should be punished and deterred by an award of punitive or enhanced damages against individual Defendants as permitted by law and in an amount to be determined at trial.

COUNT TWO

**VIOLATION OF TAKINGS CLAUSE
OF FEDERAL AND STATE CONSTITUTIONS**

43. Plaintiff incorporates herein and re-alleges, as if fully set forth herein, all factual allegations of the preceding paragraphs.

44. The Grady County State Court is a public resource and its administrative costs are properly borne by the taxpayers. By requiring Plaintiff to pay unauthorized and unreasonable “administrative costs,” Defendants took Plaintiff’s property for a public purpose without just compensation in violation of the Takings Clause of the federal and state constitutions. *See* U.S. Const. amend. V; Ga. Const. art. I, § III, ¶ I.

45. In each and every instance set forth above, Defendants acted intentionally, or at least recklessly, in disregard of Plaintiff’s constitutional rights. Defendants knew or should have known that placing a disproportionate and unreasonable share of funding for the State Court on Plaintiff and putative class members violated Plaintiff’s and class members’ constitutional rights.

46. As a direct and proximate result of Defendants’ illegal policy and practice, Plaintiff and others were wrongfully deprived of money that belonged to them.

47. Defendants are jointly and severally liable for the violations of Plaintiff's rights, and the harm she suffered as a result, because each Defendant personally participated in the actions or failures to act, or implicitly authorized, approved, or knowingly condoned or failed to remedy the wrongs at issue.

48. Defendants' above-described actions were willful, deliberate, and malicious, and involved reckless or callous indifference to Plaintiff's rights and should be punished and deterred by an award of punitive or enhanced damages against individual Defendants as permitted by law and in an amount to be determined at trial.

COUNT THREE

CONVERSION

49. Plaintiff incorporates herein and re-alleges, as if fully set forth herein, all factual allegations of the preceding paragraphs.

50. Defendants' practice of appropriating Plaintiff's and others' money without legal authority constitutes conversion – an intentional tort under Georgia law. *See* O.C.G.A. § 51-10-1 (“The owner of personalty is entitled to its possession. Any deprivation of such possession is a tort for which an action lies.”).

51. Georgia's conversion statute “authorizes the recovery of damages where a government official, without lawful authority, has temporarily deprived an

individual of his or her property.” *Grant v. Newsome*, 201 Ga. App. 710, 710, 411 S.E. 2d 796, 798 (1991). *See also Felker v. Chipley*, 246 Ga. App. 296, 297, 540 S.E.2d 285, 287 (2000) (“[A] plaintiff suing for the conversion of money may recover the amount of money converted, plus interest from the date of conversion”).

52. By taking Plaintiff’s money without authority and placing it in the County’s coffers, Defendants committed the tort of conversion. Defendants’ above-described actions were willful, deliberate, and malicious, and involved reckless or callous indifference to Plaintiff’s rights and should be punished and deterred by an award of punitive or enhanced damages against individual defendants as permitted by law and in an amount to be determined at trial.

COUNT FOUR

UNJUST ENRICHMENT/ EQUITABLE RELIEF

53. Plaintiff incorporates herein and re-alleges, as if fully set forth herein, all factual allegations of the preceding paragraphs.

54. Defendants took and converted to their own use the funds set forth above from Plaintiff and putative class members. Those funds were exacted from Plaintiff by a biased adjudicator, in violation of Plaintiff’s federal and state constitutional right to due process of law. Defendants had no legal right to

Plaintiff's funds and took these funds in violation of law. Under the circumstances here, Defendants' retention of Plaintiff's money would result in unjust enrichment.

COUNT FIVE

MONEY HAD AND RECEIVED

55. Plaintiff incorporates herein and re-alleges, as if fully set forth herein, all factual allegations of the preceding paragraphs.

56. Under the doctrine of money had and received, recovery is authorized against one who holds sums of money of another which he ought in equity and good conscience to refund. Defendants received money that in equity and good conscience, they should not be permitted to keep. Plaintiff has made a demand for repayment, but Defendants have not refunded the money in question.

COUNT SIX

DECLARATORY RELIEF

57. Plaintiff incorporates herein and re-alleges, as if fully set forth herein, all factual allegations of the preceding paragraphs.

58. For years, Judge Bass required State Court defendants to pay "administrative costs" pursuant to court order. Judge Bass continued to assess these costs after being placed on notice that he had no legal authority to do so. Even after receiving a Public Reprimand, Judge Bass again sought to impose

unauthorized costs on criminal defendants as recently as August 2013.

59. Pursuant to 28 U.S.C. § 2201, Plaintiff seeks a declaration by the Court that the Grady County State Court's orders requiring State Court defendants to pay administrative costs were and are unlawful and unenforceable.

60. Plaintiff and putative class members will be adversely affected if Defendants enforce orders to pay administrative costs. The controversy between Plaintiff and Defendants is definite and concrete. An actual controversy exists between the parties as to Defendants' enforcement of orders to pay administrative costs and whether Defendants will seek to incarcerate putative plaintiffs for failing to pay the amounts allegedly due under the orders.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court will:

- (a) Assume jurisdiction over this action;
- (b) Determine by Order pursuant to Rule 23 of the Federal Rules of Civil Procedure that this action be maintained as a class action;
- (c) Order trial by jury on all claims so triable;
- (d) Enter judgment in favor of Plaintiff;
- (e) Impose a constructive trust on all money taken from Plaintiff and putative class members in violation of law;

- (f) Order that Defendants return all money taken from Plaintiff and others in violation of law, with statutory interest paid;
- (g) Declare Defendants' policy of requiring State Court defendants to pay "administrative costs" to be in violation of law;
- (h) Enter a preliminary and thereafter a permanent injunction enjoining Defendant Grady County from collecting "administrative costs" or collecting other fees not permitted by law;
- (i) If declaratory relief is violated, enter a preliminary and thereafter a permanent injunction enjoining Defendant Judge Bass from collecting "administrative costs" or collecting other fees not permitted by law;
- (j) Enter judgment in favor of Plaintiff and the class for compensatory (or, in the alternative, nominal) and punitive damages, with statutory interest, as allowed by law, against each Defendant, jointly and severally;
- (k) Appoint a special master to oversee return of "administrative costs" to Plaintiff and class members;
- (l) Award Plaintiff the costs of this lawsuit and reasonable attorneys' fees and expenses pursuant to 42 U.S.C. § 1988;

- (m) Award enhanced or punitive damages as permitted by law and in an amount to be proven at trial;
- (n) Order such other and further relief as this Court may deem just and proper.

Respectfully submitted this 24th day of September, 2013.

s/Sarah Geraghty

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