

ACLU Wisconsin: Federal judge rules that case alleging Milwaukee Police Department unlawfully arrested two after 2016 protests will go to trial

Posted on Wednesday, Aug 24, 2022

>> WisPolitics is now on the State Affairs network. Get custom keyword notifications, bill tracking and all WisPolitics content. [Get the app or access via desktop.](#)

MILWAUKEE — A federal judge has rejected a motion by the Milwaukee Police Department that sought to dismiss a case brought by two Milwaukee residents who asserted that their First and Fourth Amendment rights were violated by the police after the two were arrested following peaceful protest and mourning at the memorial site of Sylville Smith in 2016.

Jarrett English and a second plaintiff, represented by the ACLU of Wisconsin and cooperating attorney A. Steven Porter, were arrested on August 30, 2016, after Milwaukee Police shut down a gathering of people who had been mourning and protesting the fatal police shooting of Syville Smith in the Sherman Park neighborhood for three weeks.

The ACLU of Wisconsin with cooperating counsel Porter, filed a lawsuit on behalf of the two in the Federal District court in 2019. The suit alleges that their rights to freedom of assembly and expression and to be free from unlawful arrest were violated when Milwaukee Police arrested them for simply being in the area after a police operation forced people to leave the site of Smith's memorial. Milwaukee Police in riot gear encountered the plaintiffs at separate locations blocks from the memorial site, ordered them to leave, and then arrested them without explanation even though they were not engaged in any illegal activity.

The court recognized that "In a free society, police officers do not have plenary authority to order citizens to 'move on' or disperse." While ruling that a jury will

ultimately have to decide the facts, the opinion expresses skepticism about the police department's defense, noting evidence indicating "that the failure of [the plaintiffs] to comply immediately (within seconds) of being ordered to disperse caused, at most, a mere inconvenience to the officers, who are now just trying to rationalize a pre-ordained decision."

"If the pledge of law enforcement is to uphold the Constitution and people's rights, they've got to do it all the time and not just when they feel like it. The right to peacefully assemble is one of the cornerstones of democracy and civil rights. Without it, we live in tyranny," said Plaintiff Jarrett English. "After such a long road, with more to go, I am grateful for this decision."

"Both of our clients were traumatized by their unlawful arrests. Police do not have the power to intimidate and arrest people at their whim, and we are glad that the judge ruled that a jury will decide whether Milwaukee Police violated their constitutional rights," said Larry Dupuis, legal director of the ACLU of Wisconsin. "People should be able to participate in and observe protests without fear that they will be unlawfully detained by police."

This press release is available online: <https://www.aclu-wi.org/en/-press-releases/federal-judge-rules-case-alleging-milwaukee-police-department-unlawfully-arrested-two>