

IN THE DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

FILED #5  
ifp

OCT 12 2018

SUSAN Y. SOONG  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA sn

HARRY J. WILLIBY,  
Plaintiff,

v.

MARK ZUCKERBERG,  
(In his Official Capacity),  
SHERYL SANDBERG,  
(In her Official Capacity),  
FACEBOOK, INC., ET. AL.,  
Defendant(s).

)  
) Civil Action No. **C V 18 6295**  
)

) **Verified Complaint**  
) **(First Amendment Violation)**  
) **Request for Declaratory & Injunctive Relief;**  
) **and Punitive Damages**

RMI

NC

**Complaint**

Plaintiff, Harry J. Williby (hereinafter referred to as "Plaintiff"), by and through his undersigned counsel, bring this Complaint against Defendants Facebook, Mark Zuckerberg, in his official capacity as Chairman and Chief Executive Officer of Facebook and Sheryl Sandberg, in her official capacity as Chief Operating Officer of Facebook (collectively referred to as "Defendants" or "Facebook") and their employees, agents, and successors in office, and in support thereof allege the following upon information and belief:

**INTRODUCTION**

1. This case seeks to protect and vindicate fundamental constitutional rights. It is a civil action brought under the First Amendment to the United States Constitution, challenging Defendants' restriction on Plaintiffs' right to freedom of speech. Defendants have adopted a policy that operates as a prior restraint on Plaintiffs' speech, prohibiting Plaintiffs from displaying news post on Facebook's property based on the content and viewpoint of Plaintiffs'

message.

2. Plaintiff seeks a declaration that Defendants are quasi-government actors, who have violated Plaintiff's clearly established constitutional rights as set forth in this Complaint; a declaration that Defendants' restriction on Plaintiffs' speech violates the U.S. Constitution as set forth in this Complaint; a preliminary and permanent injunction enjoining the enforcement of Defendants' speech restriction as set forth in this Complaint; and "substantial damages" for the past loss of Plaintiffs' constitutional rights. Plaintiffs also seek an award of punitive damages, reasonable costs of litigation, including attorneys' fees and expenses, pursuant to applicable law.

### **JURISDICTION AND VENUE**

3. This action arises under the Constitution and laws of the United States. Jurisdiction is conferred on this Court pursuant to 28 U.S.C. § 1331.

4. Plaintiffs' claims for declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 and 2202, by Rules 57 and 65 of the Federal Rules of Civil Procedure, and by the general legal and equitable powers of this Court. Plaintiffs' claim for "substantial damages" and punitive damages are authorized by precedent law.

5. Venue is proper under 28 U.S.C. § 1391(b) because a all of the events or omissions giving rise to Plaintiffs' claims occurred in this district.

### **PLAINTIFF**

6. Plaintiff, Harry J. Williby, is a United States citizen and a resident of the State of California, County of Shasta. Plaintiff is the owner of the Facebook profile account Harry J. Williby. Plaintiff, does business as (hereafter "dba") Corrupt Justice™ (as a separate Facebook page) and The Attorney Depot™ (as a separate Facebook page).

7. Plaintiff is dedicated to freedom of speech, freedom of conscience, freedom of religion, and individual rights. Plaintiff achieves his objectives through a variety of lawful means, including through the exercise of its right to freedom of speech under the United States Constitution.

8. Plaintiff, exercises his right to freedom of speech and promotes his objectives by, *inter alia*, by tracking and publicizing incidents of corruption in state and federal government; posting current events; daily politics; elections; daily trial court coverage; general news stories; including issues involving the suppression of free speech by private individuals; and complicit government officials The Attorney Depot™ and Corrupt Justice™ Facebook pages. Plaintiff also posts YouTube videos on both pages; and maintains Facebook Video Pages on both The Attorney Depot™ and Corrupt Justice™ Facebook pages.

9. Plaintiff is the sole editor of both The Attorney Depot™ and Corrupt Justice™ Facebook pages and he engages in protected speech through Facebook posting activities to express his message on current events and public issues, (hereinafter referred to as “Plaintiff’s First Amendment Rights”).

#### **DEFENDANTS**

10. Defendant Facebook, Inc. is a California corporation that was founded in Founded in 2004. Defendant Facebook’s Headquarters is located at 1 Hacker Way, Menlo Park, California 94025. Defendant Facebook states on their web page: *“Our Mission: Founded in 2004, Facebook’s mission is to give people the power to build community and bring the world closer together. People use Facebook to stay connected with friends and family, to discover what’s going on in the world, and to share and express what matters to them.”*

11. Defendant Mark Zuckerberg is the founder, chairman and CEO of Facebook, Inc. He allegedly founded Defendant Facebook, Inc. in 2004. Defendant Zuckerberg is responsible for setting the overall direction and product strategy for the company. He leads the design of Defendant Facebook Inc.'s service and development of its core technology and infrastructure. As the Chief Executive Officer, Defendant Zuckerberg is responsible for enforcing the acts, policies, practices, and/or customs of Defendant Facebook, Inc., including the restriction on Plaintiffs' speech set forth in this Complaint. Defendant Zuckerberg is sued in his official capacity.

12. Defendant Sheryl Sandberg is Chief Operating Officer at Facebook, Inc. She oversees the firm's business operations. Prior to working for Defendant Facebook, Inc., Defendant Sandberg was vice president of Global Online Sales and Operations at Google; Chief of Staff for the United States Treasury Department under President Clinton; a management consultant with McKinsey & Company; and an economist with the World Bank. As the Chief Operating Officer, Defendant Sandberg is responsible for enforcing the acts, policies, practices, and/or customs of Defendant Facebook, Inc., including the restriction on Plaintiffs' speech set forth in this Complaint. Defendant Sandberg is sued in her official capacity.

#### **STATEMENT OF FACTS**

13. Defendant Facebook, Inc. is a Global, American based, on-line social media and social networking service company. Defendant Facebook, Inc., knowingly, willingly and intentionally invites citizens [and aliens alike] in the United States [and the World] to post on Defendant Facebook, Inc., web [page] platform. Defendants, and each of them, jointly and severally, refer to said post(s) as "Facebook Posts." As a direct and proximate result of said invitation(s) Defendant Facebook, Inc., had 1.47 billion daily active users on Facebook, on

average for June 2018. Defendant Facebook, Inc., averaged 2.23 billion monthly active users on Facebook as of June 30, 2018.<sup>1</sup> Based upon the foregoing conduct, Facebook, Inc., is mandated to comply with the First Amendment to the U.S. Constitution.

14. According to Defendant Facebook, Inc.'s website: "Any advertiser running ads related to politics or issues of national importance in the United States must complete the authorization process required by Facebook. If you're running ads on these subjects and you need to get authorized, follow the instructions here."<sup>2</sup> Facebook, Inc., continues on its page: "Building for transparency: We believe that when you see an ad on Facebook it should be clear who it's coming from. "This transparency is a key part in our election integrity efforts. We're releasing several product updates to provide additional transparency and strengthen the integrity of US elections." In addition to product and policy changes, we're investing heavily in more people and better technology to pro-actively identify abuse. We believe this investment, and our product updates, will lead to improved accountability and responsibility over time – not just for Facebook but advertisers as well. These updates consist of three parts: 1) AUTHORIZATIONS; 2) LABELING and 3) AD ARCHIVE."

15. As set forth above, Defendant Facebook, Inc., makes an admission that the company sells advertisement(s) to "... strengthen the integrity of US elections, ... ." Based upon the foregoing conduct, Facebook, Inc., is mandated to comply with the First Amendment to the U.S. Constitution. As the Chief Executive and Operating Officer(s), Defendants Zuckerberg and Sandberg are responsible for enforcing the acts, policies, practices, and/or customs of Defendant Facebook, Inc., including the restriction on Plaintiffs' speech set forth in this Complaint.

<sup>1</sup> <https://newsroom.fb.com/company-info/>

<sup>2</sup> <https://www.facebook.com/business/m/one-sheeters/ads-with-political-content-us>

16. Defendant Facebook, Inc.'s political advertising penetrates 90% of the daily population and makes multiple impressions all over the U.S. region, throughout business districts, residential areas, and tourist attractions. Facebook, Inc.'s political advertising on the Internet system provides an opportunity to target U.S. voters, global businesses executives, federal employees, students, U.S. citizens and tourists. Facebook, Inc.'s political advertising displays are available on the sides, backs, and interiors of privately owned and managed Facebook profiles and pages.

17. On, or about October 3, 2018, Plaintiff posted on his Facebook pages (The Attorney Depot™ and Corrupt Justice™) a [national] news story regarding an incident concerning a New York City Police Officer. The post read as follows: “*TN (Photo) NYPD officer Michael Reynolds, 24, faces official charges of felony aggravated burglary and misdemeanor assault. In July 2018, Reynolds was on vacation and staying at an Airbnb in a popular Nashville neighborhood. Reynolds went to the wrong Airbnb house after a night of heavy drinking. He didn't have any keys for the house. Reynolds broke into the home of Conese Halliburton. Halliburton and her two sons yelled at Reynolds to get out of the house. However, instead of leaving, Reynolds shouted at the family saying: "Try to shoot me, I'll break every bone in your fucking neck. You fucking nigger."*” (See attached Exhibit No. 1.)

18. On October 4, 2018, Defendant Facebook, Inc., notified Plaintiff regarding the foregoing Facebook post as follows: “*Only you can see this because it goes against our standards on hate speech.*” (See attached Exhibit No. 2.)

19. On the same day, October 4, 2018, as a result of Plaintiff's Facebook Posts, Defendant Facebook informed Plaintiff of the following: “*You're Temporarily Blocked From*

*Posting. This temporary block will last for 30 days, and you won't be able to post until it is finished. If you post something that goes against our standards again, your account will be blocked for another 30 days.*” (See **attached Exhibit No. 3.**)

20. At the time Plaintiffs posted the news story at issue here for display on his Facebook pages, Defendant Facebook, Inc., sold advertisement space for a wide array of political, religious, public-issue, public-service, and commercial advertisements, including advertisements expressing controversial views and addressing controversial issues.

21. For example, Defendant Facebook, Inc., has leased its advertising space for advertisements that criticize Israel and Jews, including an advertisement that sought to “End U.S. military aid to Israel.” Defendant Facebook, Inc., has also displayed advertisements submitted by the Council on AmericanIslamic Relations (CAIR), a Hamas-linked, Muslim Brotherhood front organization, promoting CAIR’s views on Islam and the Quran.

22. At the time Plaintiffs posted the news story at issue here, Defendant Facebook, Inc.’s advertising space was a public forum for Plaintiffs’ speech. Consequently, Defendant Facebook, Inc. was required to display the news story pursuant to the First Amendment.

23. Between mid-January and February 2018, Defendant Facebook, Inc., successfully, to suppressed Plaintiffs’ speech by removing a Facebook post from Plaintiff’s page. Defendants accused Plaintiff of “harassment & bullying.” (See **attached Exhibit No. 4.**) Plaintiff was blocked from posting for 30 days. Plaintiff elected not to file a federal civil rights lawsuit.

24. Pursuant to clearly established First Amendment jurisprudence, the loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury sufficient to warrant injunctive relief.

25. Moreover, changes to a forum motivated by actual viewpoint discrimination, as in this case, are impermissible under the First Amendment. Consequently, because the true purpose of Defendant Facebook, Inc.'s actions were to silence Plaintiffs' disfavored speech, the federal courts are capable of taking prompt and measurably appropriate action to remedy this First Amendment violation.

**FIRST CLAIM FOR RELIEF**

**(Freedom of Speech—First Amendment)**

**(Against All Defendants)**

26. Plaintiffs hereby incorporate by reference all stated paragraphs.

27. By reason of the aforementioned speech restriction, including the removal of the Plaintiff's Facebook posts, and enforced under the guise of Federal "hate speech" law, Defendants, and each of them, jointly and severally, have deprived Plaintiff of his right to engage in protected speech in violation of the Free Speech Clause of the First Amendment to the U.S. Constitution.

28. Defendants' restriction on Plaintiffs' speech is content- and viewpoint-based in violation of the Free Speech Clause of the First Amendment.

29. Defendants' true purpose for adopting the resolution at issue here was to silence the viewpoint expressed by Plaintiffs' speech. Consequently, the true purpose for adopting the resolution was to silence disfavored viewpoints in violation of the Free Speech Clause of the First Amendment.

30. As a direct and proximate result of Defendants' violation of the Free Speech Clause of the First Amendment, Plaintiffs have suffered irreparable harm, including the loss of



his constitutional rights, entitling him to declaratory and injunctive relief and “substantial” damages.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs ask this Court:

A) to declare that based upon Defendant Facebook, Inc.’s, statement that: “This transparency is a key part in our election integrity efforts. We’re releasing several product updates to provide additional transparency and strengthen the integrity of US elections,” Mark Zuckerberg and Sheryl Sandberg, in their official capacities and Facebook, Inc., are Quasi-government actors under the U.S. Constitution as set forth in this Complaint;

B) to declare that Defendants’ restriction on Plaintiffs’ speech, including the removal of the Facebook posts at issue here, violates the First Amendment to the U.S. Constitution as set forth in this Complaint;

C) to preliminarily and permanently enjoin Defendants’ speech restriction and its application to Plaintiffs’ speech as set forth in this Complaint;

D) to award Plaintiffs “substantial” damages for the past loss of his constitutional rights as set forth in this Complaint;

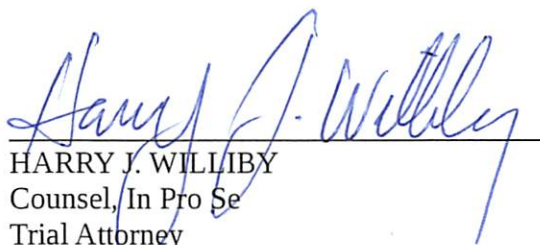
E) to award Plaintiffs their reasonable attorney fees, costs, and expenses pursuant to applicable law; and

F) to Plaintiff an award of punitive damages; and

G) grant such other and further relief as this Court should find just and proper.

**Dated: October 8, 2018.**

Respectfully submitted,

A handwritten signature in blue ink, reading "Harry J. Williby", is written over a horizontal line.

HARRY J. WILLIBY  
Counsel, In Pro Se  
Trial Attorney  
P.O. Box 990775  
Redding, CA 96099  
(209) 244-3414  
harrywilliby@yahoo.com

**Verification**

I, Harry J. Williby, declare as follows:

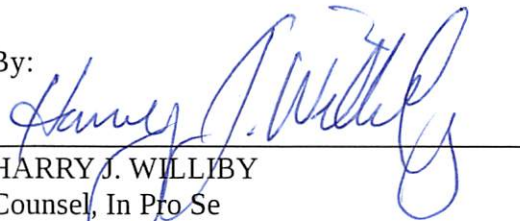
1. I am a Plaintiff in the present case, a natural-born citizen of the United States of America, and a resident of the State of California.

2. I have personal knowledge of myself, my activities, and my intentions, including those set out in the foregoing Verified Complaint for Declaratory and Injunctive Relief, and if called on to testify I would competently testify as to the matters stated herein.

3. I verify under penalty of perjury under the laws of the United States of America that the factual statements in this Complaint concerning myself, my activities, and my intentions are true and correct. 28 U.S.C. § 1746.

Executed on: **October 8, 2018.**

By:

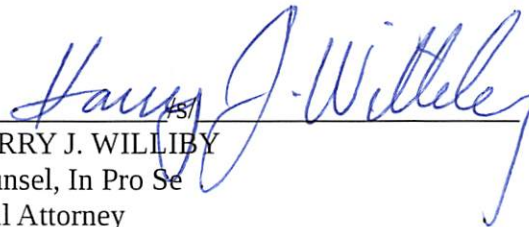


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Trial Attorney  
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(209) 244-3414  
harrywilliby@yahoo.com

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 10<sup>th</sup> day of October, 2018, I will deliver by U.S. mail the foregoing document to the following :

Colin S. Stretch, Esq.  
VP & General Counsel, Facebook, Inc.  
1601 Willow Road  
Menlo Park, California 94025  
Phone: 650-543-4800

  
\_\_\_\_\_  
HARRY J. WILLIBY  
Counsel, In Pro Se  
Trial Attorney  
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ExhibiTs: 1-4 →

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44**

**Authority For Civil Cover Sheet.** The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)."
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
  - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
  - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
  - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
  - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
  - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
  - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
  - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
  - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
  - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket.
- Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint. Class Action.** Place an "X" in this box if you are filing a class action under Federal Rule of Civil Procedure 23.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: "the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated."

**Date and Attorney Signature.** Date and sign the civil cover sheet.

← P-1:2181x2



Harry Williby

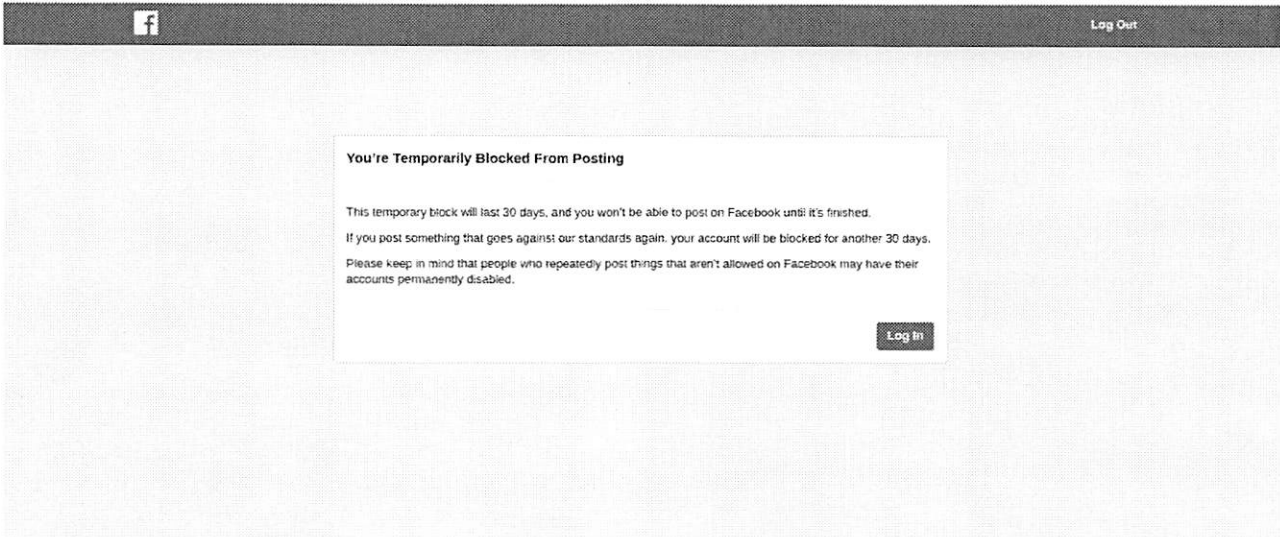
30w

Flint, Michigan (May 2016) Maria Reed, 39 and her son, Dion Reed, 20, were sworn in as Flint Police Officers in 2016. They now claim that publishing this information (on Facebook) constitutes bullying & harassment!



Williby v. Zuckerberg/Facebook

**Exhibit No. 4: Photo of Flint, Michigan Police Officers**



Williby v. Zuckerberg/Facebook

**Exhibit No. 3: Facebook October 4, 2018 Notice of Blocking Posts based upon “Hate Speech” Violation.**

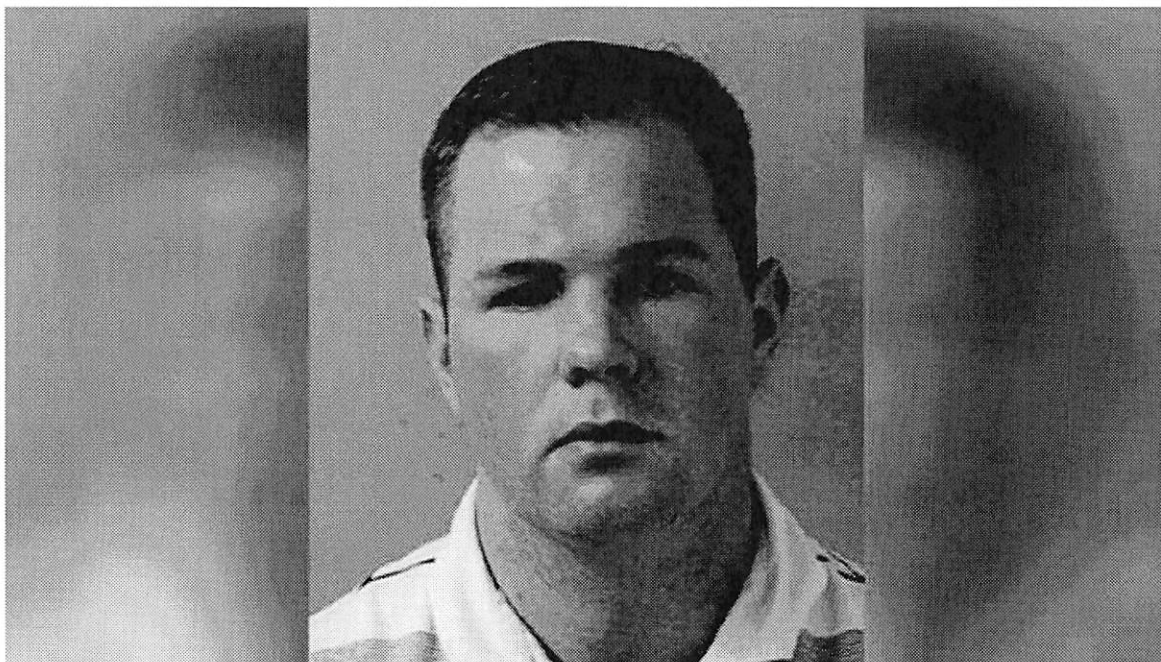


**This post goes against our Community Standards**

Only you can see this post because it goes against our standards on hate speech.



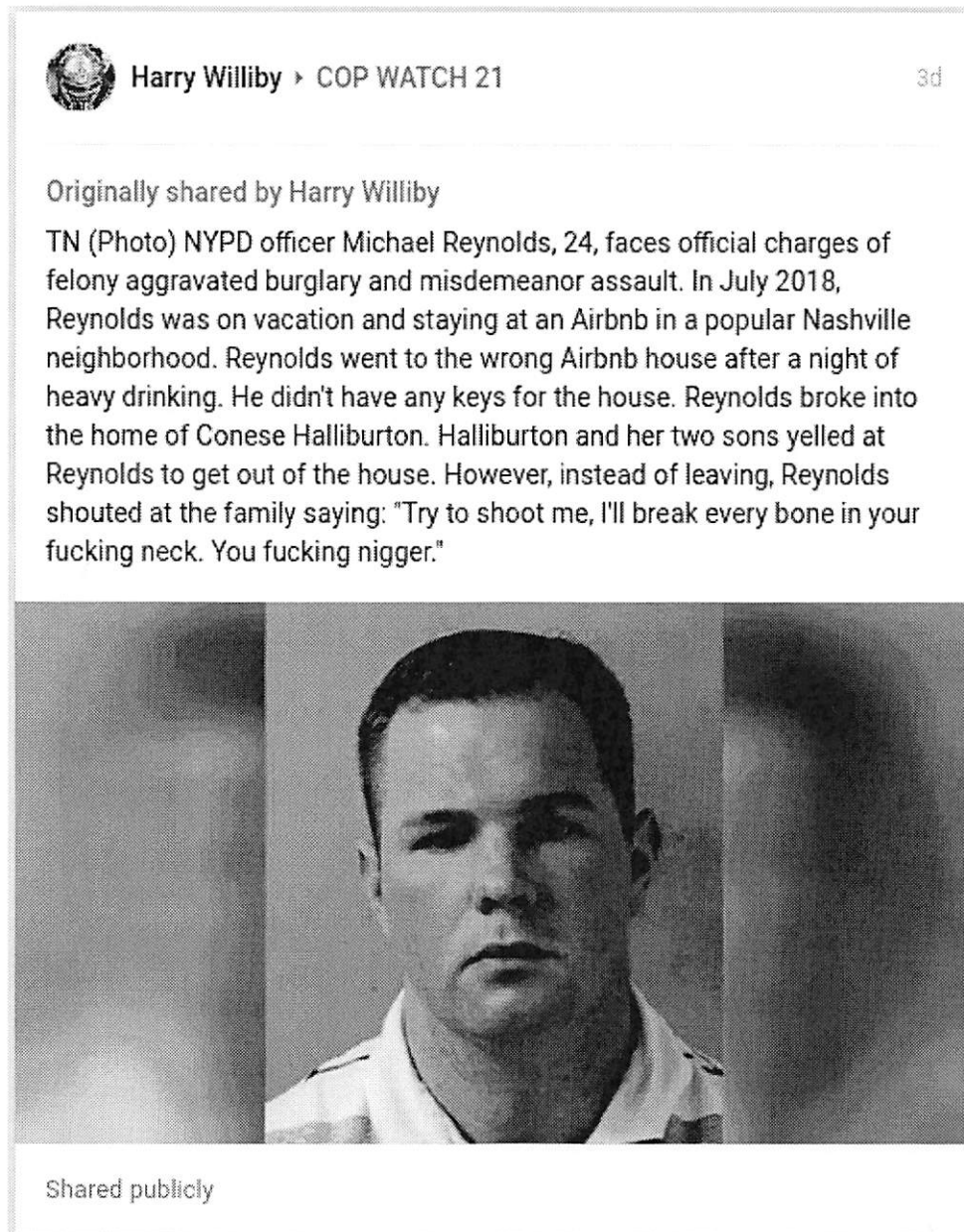
Harry J. Williby



Continue

Williby v. Zuckerberg/Facebook

**Exhibit No. 2: Facebook October 4, 2018 Notice of “Hate Speech” Violation.**



Williby v. Zuckerberg/Facebook

**Exhibit No. 1: Original Post that Facebook claims constitutes "Hate Speech" Violation.**