

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

---

JOSEPH YAMRUS,

Plaintiff,

v.

TOWNSHIP OF WASHINGTON, POLICE  
CHIEF DANIEL C. COTTURO, JR., in his  
individual capacity, and POLICE OFFICER  
SCOTT E. MILLER, in his individual  
capacity,

Defendants.

---

Civil Action No. \_\_\_\_\_

**COMPLAINT FOR DECLARATORY  
RELIEF AND DAMAGES**

Plaintiff Joseph Yamrus, by and through his undersigned counsel, brings this Complaint against the Township of Washington, Police Chief Daniel C. Cotturo, Jr. and Police Officer Scott E. Miller (collectively, "Defendants"). In support thereof, Mr. Yamrus avers as follows:

**NATURE OF THE ACTION**

1. In this case, Plaintiff Joseph Yamrus ("Mr. Yamrus") seeks declaratory relief and to recover damages based on the Defendants' infringement of his rights of free expression under the U.S. Constitution and the Pennsylvania Constitution. Mr. Yamrus is a person with strong and, sometimes, unpopular opinions. He has, among them, opinions that are critical of Congressional conduct with respect to terrorism and the war in Iraq. To express himself, Mr. Yamrus decided to hang his American flag upside down on his property, which is a well-recognized symbol of distress. Defendants, through the actions of Officer Miller and with the explicit or implicit approval of each of them, responded to Mr. Yamrus's political statement by

charging him with an “Insult” to the Flag in violation of 18 Pa. C.S.A. § 2103. Although the charges were later dropped, Mr. Yamrus had to incur attorneys’ fees and other costs defending himself. Moreover, the Pennsylvania statute proscribing “Insults” to the Flag remains on the books, which continues to have a chilling effect on Mr. Yamrus’s political rights. Mr. Yamrus therefore seeks damages and declaratory relief to preserve his right to express himself freely.

### **PARTIES**

2. Plaintiff Joseph Yamrus resides in Bangor, Pennsylvania, and he is a citizen of the United States of America.

3. Defendant Washington Township (the “Township”) is a municipality located in Northampton County, Pennsylvania.

4. Defendant Daniel C. Cotturo, Jr. (“Chief Cotturo”) is the duly appointed Chief of the Washington Township Police Department. Chief Cotturo’s office is located at 1021 Washington Blvd., Bangor, Pennsylvania 18013. Chief Cotturo is sued in his individual capacity. At all relevant times, Chief Cotturo was a duly qualified and acting police officer, and he was responsible for the supervision and training of Defendant Scott E. Miller as a police officer.

5. Defendant Scott E. Miller (“Officer Miller”) is a duly appointed police officer employed by the Police Department. Officer Miller is sued in his individual capacity. At all relevant times, Officer Miller was a duly qualified and acting police officer.

6. At all relevant times, each and all of the acts of the individual Defendants were taken by Defendants under the color and pretense of statutes, ordinances, regulations, customs, and usages of the Commonwealth of Pennsylvania, the Township, the Police Department, and under the authority of their respective official positions.

## JURISDICTION AND VENUE

7. This is an action under 42 U.S.C. § 1983 and 28 U.S.C. § 2201 for damages and declaratory relief for the past deprivation and to prevent the further deprivation by Defendants and their agents, acting under color of state law, of rights, privileges and immunities secured by the First and Fourteenth Amendments of the U.S. Constitution and by Art. I, secs. 1 and 7 of the Pennsylvania Constitution, guaranteeing to all persons freedom of speech, assembly and the right to petition the government for redress of grievances. The Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1343, and it has supplemental jurisdiction over Mr. Yamrus's state law claims under 28 U.S.C. § 1367.

8. Venue is proper in the United States District Court for the Eastern District of Pennsylvania pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claim occurred in this district. Venue also is proper in this district pursuant to 28 U.S.C. § 1391(b)(1) because one or more Defendants reside in this district and, upon information and belief, all of the Defendants are considered to reside in the Commonwealth of Pennsylvania for purposes of determining venue.

9. Plaintiff will promptly file and serve the appropriate notice of constitutional question on the Attorney General of the Commonwealth of Pennsylvania in accordance with Federal Rule of Civil Procedure 5.1

## FACTUAL BACKGROUND

10. Mr. Yamrus has been troubled about certain conduct by members of Congress, including with respect to their involvement in the foreign policy of the United States as it relates to the Middle East. Mr. Yamrus believes that this Congressional conduct is of critical concern to the nation and his family, and he regularly expresses his opinions verbally and through symbolic expressions.

11. On May 30, 2007, Officer Miller received a complaint from an individual who had driven past 145 Molasses Road in Bangor, Pennsylvania, that an American flag was flying upside down at that residence. Upon information and belief, the individual complainant misinterpreted the flag display as signaling the owner's opposition to the war in Iraq. The flag display, as Mr. Yamrus later explained, was a political statement, but it was specifically directed at conduct by certain members of Congress.

12. At all relevant times, the residence at 145 Molasses Road was owned and occupied by Mr. Yamrus.

13. Upon information and belief, without considering the statutory authority or the free expression rights at stake, Officer Miller told the complainant that he would "speak to Mr. Yamrus and request that he remove the flag and/or fly it properly." *Commonwealth of Pennsylvania vs. Joseph Yamrus*, Police Criminal Complaint, verified as of June 14, 2007, and Affidavit of Probable Cause, verified on June 21, 2007, attached hereto as Exhibit A.

14. Officer Miller went to the Yamrus residence and took digital photographs of the flag flying upside down.

15. Later that day, Officer Miller left a phone message for Mr. Yamrus regarding the flag. In that phone message, Officer Miller told Mr. Yamrus to remove the flag or fly it upright.

16. Shortly thereafter, Mr. Yamrus returned the phone call and left a phone message for Officer Miller. In the message, Mr. Yamrus explained that the American flag being flown upside down symbolized distress. Mr. Yamrus further explained that the source of the distress was the conduct of certain members of Congress, especially with respect to their involvement with the foreign policy of the United States as it relates to the Middle East. Mr. Yamrus offered to speak with the person who had complained about his flag and explain his views in more detail, but said that he would not remove the flag or fly it upright.

17. After receiving Mr. Yamrus's message, Officer Miller conducted research to "determine if any charges could be pursued against Mr. Yamrus." Thus, despite knowing that Mr. Yamrus's display of the flag was an expression of political opinion, Officer Miller went in search of a legal basis on which to charge Mr. Yamrus.

18. Officer Miller concluded that Mr. Yamrus was in violation of 18 Pa.C.S.A. § 2103 (the "Statute"), which declares unlawful "insults" to the flag of either the United States of America or the Commonwealth of Pennsylvania.

19. The Statute provides as follows:

Insults to National or Commonwealth Flag:

A person is guilty of a misdemeanor of the second degree if he maliciously takes down, defiles, injures, removes or in any manner damages, insults, or destroys any American flag or the flag of the Commonwealth which is displayed anywhere.

18 Pa.C.S.A. § 2103.

20. Relying on the Statute as the legal basis for his actions, on June 11, 2007, Officer Miller threatened Mr. Yamrus with criminal sanctions if he did not either remove the flag or fly it upright.

21. Mr. Yamrus declined to alter his display of the flag. According to the Police Criminal Complaint:

Mr. Yamrus stated that he [wa]s flying the US flag upside down because our country is in distress due to the politicians and that it is not personally against our troops in Iraq. He was informed that although the upside down flag is an accurate form of distress for active military personnel, him flying it upside down due to his anger over the current administration is not the proper form of the flag flying upside down, and that his actions are criminal in nature. Mr. Yamrus then advised [Officer Miller] to do what was necessary and if need be, he will take the matter to the US Supreme Court, because he will not take that flag down or fly it properly.

22. On the same day, Mr. Yamrus went to the Police Department to obtain more information relevant to the charges with which he had been threatened. Incidentally, upon entering the Police Department, Mr. Yamrus saw a dirty, faded and torn American flag being prominently displayed at the entrance. Mr. Yamrus told the Police Department that the hanging of a tattered and soiled American flag, out of neglect, was an offense to the nation in contrast to his flying the flag upside down to express his political views. The Police Department responded by replacing its torn American flag, and it telephoned Mr. Yamrus to make sure he knew that it had been replaced.

23. Subsequently, Officer Miller advised Mr. Yamrus that charges would be filed against him for violating the Statute.

24. On June 21, 2007, Mr. Yamrus was formally charged with violating the Statute.

25. According to the Police Criminal Complaint, Mr. Yamrus was charged with violating the Statute because he “ha[d] been displaying/flying the United States American Flag upside down at his residence which is in full public view since at least May 30, 2007 which is of great insult to this country and the flag that represents this nation.”

26. A preliminary hearing initially was scheduled for July 11, 2007, and then was continued to August 9, 2007 at the request of Mr. Yamrus’s attorney.

27. By letter dated July 12, 2007, the Office of the District Attorney of Northampton County (the "District Attorney") advised the judge presiding over Mr. Yamrus's case that it would not prosecute Mr. Yamrus in connection with the pending charges, and it requested that the charges be dropped. Subsequently, the court withdrew the charges on the docket.

28. Although the charges were dropped, Mr. Yamrus suffered harm as a result of the criminal proceeding. Mr. Yamrus was forced to hire an attorney to represent him in connection with his criminal prosecution and was billed for services rendered. He has also incurred the legal expense of having his record with respect to this criminal proceeding expunged. Mr. Yamrus may also be forced to disclose the charges in certain circumstances, such as on some loan applications, to his detriment.

29. Upon information and belief, Chief Cotturo and other supervisors of Officer Miller failed to provide the training necessary to instruct Officer Miller that, as a police officer, he should not issue criminal citations to people for expressing their political views and that he should treat their constitutional rights of free expression as superior to conflicting statutory authority.

30. On July 26, 2007, The Express-Times published a letter to the editor from Officer Miller, in which he attempted to defend his decision to bring charges against Mr. Yamrus. In the editorial, he suggested that police officers are duty-bound to enforce all criminal statutes, even if that meant infringing on constitutional rights. Officer Miller wrote, "Would one want police officers to unilaterally decide which laws and statutes they wish to enforce? I think not. . . . [T]his criminal statute, which I took an oath to uphold, perfectly fits the inappropriate actions of [Mr.] Yamrus. It was clearly insulting to the [complainant]."

31. Prior to his arrest, Mr. Yamrus had been hanging his flag upside down at his home for more than three months without incident. Ever since his arrest, Mr. Yamrus and his wife have been subjected to anonymous threatening phone calls and physical intrusion on his property. Frequently, unidentified people drive by his home screaming insults and obscenities at Mr. Yamrus and his wife. Mr. Yamrus brought this harassment to the attention of the Township of Washington Police Department, but little if anything has been done by the police to stop it.

32. Mr. Yamrus has received no assurances from the Township of Washington or its Police Department that further charges will not be filed against him in the future. In addition, while the District Attorney has since stated publicly that the Statute is unconstitutional, he has not and cannot foreclose the possibility that the same charges could be brought against Mr. Yamrus in the future by another police officer, nor did he indicate that he would refuse prosecution against any other person within his jurisdiction.

33. Mr. Yamrus also displays a small flag upside down on his car. Thus, even if he were to receive assurances that the Township would not again charge him with violating the Statute, he still would be at risk of criminal prosecution whenever he drove his car through other municipalities within the Commonwealth.

**COUNT I**  
**(Declaratory Relief)**

34. Mr. Yamrus incorporates by reference Paragraphs 1 to 32 as though fully set forth herein.

35. An actual controversy exists between these parties regarding the past and the possible future application of the Statute to the manner in which Mr. Yamrus freely expresses his political views.



36. Mr. Yamrus has a political opinion about Congressional interference in the foreign affairs of the United States, and he flies his flag upside down to express his views. The Statute inhibits citizens from expressing themselves freely about such controversial matters.

37. Mr. Yamrus seeks to continue to fly his flag upside down in demonstration of his political beliefs and ideas in a lawful manner in the Commonwealth of Pennsylvania.

38. Mr. Yamrus fears that if he continues to fly his flag upside down, he will be subject to summons, and his expressive conduct will be stifled because of the provisions of 18 Pa.C.S.A. § 2103. Even within the Township of Washington, Defendants have offered no assurances that this will not happen.

39. Mr. Yamrus has suffered, is now suffering, and will continue to suffer deprivation of his First and Fourteenth Amendment rights unless granted the relief requested in this Complaint.

40. The Statute on its face violates the First Amendment to the U.S. Constitution and Art. I, sec. 7, of the Pennsylvania Constitution. The Statute is overly and impermissibly broad because it directly proscribes speech that is protected under the federal and state constitutions.

41. The Statute is impermissibly vague because its essential terms are undefined and indefinable and, as a result, the Statute fails to give adequate notice of the speech and conduct that it prohibits. The Statute also fails to establish adequate standards for those who apply it. Accordingly, the Statute violates Mr. Yamrus's right to due process of the law under the Fourteenth Amendment and Art. I, sec. 1, of the Pennsylvania Constitution.

42. The very existence of the Statute and its threatened enforcement by Defendants inhibits and deters the exercise of Mr. Yamrus's constitutional rights. He has been and remains unsure whether he would be subject to criminal sanction based on the content of his speech. He

has been and remains uncertain about what speech is proscribed by the Statute and whether he will be criminally sanctioned under the Statute for speech protected by the federal and state constitutions.

43. Mr. Yamrus has no plain, adequate, or complete remedy at law against the enforcement of the Statute by Defendants or others. Declaratory relief from this Court is the only relief that adequately can protect Mr. Yamrus's free speech rights of Mr. Yamrus.

44. Mr. Yamrus does not seek any relief against any proceeding now pending in any other forum. Instead, Mr. Yamrus seeks a declaration that his rights were violated by the actions of the Defendants and seeks declaratory protection against future violations of his rights.

45. The very existence of the Statute and its threatened enforcement by the Defendants and others causes irreparable injury to Mr. Yamrus's constitutional rights as well as to the constitutional rights of other citizens in the Commonwealth of Pennsylvania.

**WHEREFORE**, Plaintiff Joseph Yamrus respectfully requests that the Court enter judgment in favor of Plaintiff and against Defendants, and award Plaintiff the following relief:

(a). Enter a declaratory judgment that 18 Pa.C.S.A. § 2103 on its face violates Plaintiff Joseph Yamrus's right of free speech guaranteed by the First Amendment to the U.S. Constitution and by Art. I, sec. 7, of the Pennsylvania Constitution, and his right to due process and equal protection of the laws guaranteed by the Fourteenth Amendment and by Art. I, sec. 1, of the Pennsylvania Constitution;

(b). Enter a declaratory judgment that 18 Pa.C.S.A. § 2103 as it was applied to Plaintiff Joseph Yamrus violates his right of free speech guaranteed by the First Amendment to the U.S. Constitution and by Art. I, sec. 7, of the Pennsylvania

Constitution, and his right to due process and equal protection of the laws guaranteed by the Fourteenth Amendment and by Art. I, sec. 1, of the Pennsylvania Constitution;

(c). Award to Plaintiff Joseph Yamrus his reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988; and

(d). Award to Plaintiff Joseph Yamrus any other relief that is just and proper under the circumstances.

**COUNT II**  
**(Damages)**

46. Mr. Yamrus incorporates by reference Paragraphs 1 to 44 as though fully set forth herein.

47. Defendants' actions in filing charges against Mr. Yamrus for flying his flag upside down were a clear violation of his right of free speech guaranteed by the First Amendment to the United States Constitution and by Act I, Sec. 7 of the Pennsylvania Constitution, as well as his constitutional rights to due process and equal protection.

48. Defendants acted intentionally, maliciously and/or in reckless disregard of Mr. Yamrus's clearly established rights.

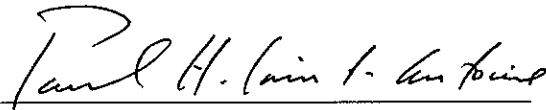
49. Defendants Township of Washington and Chief Cotturo also caused these constitutional violations through their deliberate indifference in failing to properly train, supervise, and discipline police officers, including Officer Miller, to prevent them from interfering with or retaliating against members of the public, such as Mr. Yamrus, who seek to exercise their rights of free expression.

50. Mr. Yamrus has suffered harm, including legal costs and expenses incurred in connection with hiring an attorney in defense of his criminal prosecution, as a result of Defendants' deprivation of his constitutional rights and is entitled to redress for these violations.

**WHEREFORE**, Plaintiff Joseph Yamrus respectfully requests that the Court enter judgment in favor of Plaintiff and against Defendants, and award Plaintiff the following relief:

- (a). Award to Plaintiff Joseph Yamrus nominal damages and compensatory damages in an amount to be determined at trial;
- (b). Award to Plaintiff Joseph Yamrus his reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988; and
- (c). Award to Plaintiff Joseph Yamrus any other relief that is just and proper under the circumstances.

Dated: June 18, 2008



Paul H. Saint-Antoine (Attorney ID 56224)

Jessica Kozlov-Davis (Attorney ID 202083)

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18th & Cherry Streets

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**AMERICAN CIVIL LIBERTIES UNION**

**OF PENNSYLVANIA**

P.O. Box 40008

Philadelphia, PA 19106

Tel: (215) 592-1513

*Counsel for Plaintiff Joseph Yamrus*

Exhibit A

COMMONWEALTH OF PENNSYLVANIA  
 COUNTY OF: NORTHAMPTON



POLICE  
 CRIMINAL COMPLAINT

COMMONWEALTH OF PENNSYLVANIA  
 VS.

DEFENDANT:

Magisterial District Number 03-3-03  
 MDJ Name: Hon. TODD M. STROHE  
 Address: 718 S. MAIN ST. PO BOX 186  
BANGOR PA 18013  
 Telephone: ( ) 610-588-3998

Docket No.: CR-000080-07  
 Date Filed: 6/21/07  
 OTN: K 281850-5

NAME and ADDRESS  
JOSEPH YAMRUS  
145 MOLASSES RD  
BANGOR PA 18013

Defendant's Race/Ethnicity <input checked="" type="checkbox"/> White <input type="checkbox"/> Asian <input type="checkbox"/> Hispanic <input type="checkbox"/> Black <input type="checkbox"/> Native American <input type="checkbox"/> Unknown	Defendant's Sex <input type="checkbox"/> Female <input checked="" type="checkbox"/> Male	Defendant's D.O.B. <u>09/09/1942</u>	Defendant's Social Security Number <u>211-32-2818</u>	Defendant's SID (State Identification Number) <u>07057997</u>
Defendant's A.K.A. (also known as)		Defendant's Vehicle Information Plate Number		Defendant's Driver's License Number State <u>PA</u>   <u>20616326</u>
Complaint/Incident Number <u>07-0730</u>	LiveScan Tracking Number	Complaint/Incident Number if other Participants		UCR/NIBRS Code <u>2664/90Z</u>

Office of the Attorney for the Commonwealth  Approved  Disapproved because:  
 (The attorney for the Commonwealth may require that the complaint, arrest warrant affidavit, or both be approved by the attorney for the Commonwealth prior to filing. Pa.R.Crim.P. 507.)

(Name of Attorney for Commonwealth-Please Print or Type)	(Signature of Attorney for Commonwealth)	(Date)
<u>I, PTLM SCOTT E. MILLER</u>	<u>306</u>	
(Name of Affiant-Please Print or Type)	(Officer Badge Number/I.D.)	
<u>of WASHINGTON TOWNSHIP POLICE DEPT</u>	<u>PA0482500</u>	<u>07-0730</u>
(Identify Department or Agency Represented and Political Subdivision)	(Police Agency or ORI Number)	(Originating Agency Case Number (OCA))

do hereby state: (check appropriate box)

- I accuse the above named defendant who lives at the address set forth above  
 I accuse the defendant whose name is unknown to me but who is described as \_\_\_\_\_  
 I accuse the the defendant whose name and popular designation or nickname is unknown to me and whom I have therefore designated as John Doe  
 with violating the penal laws of the Commonwealth of Pennsylvania at \_\_\_\_\_  
 (Place-Political Subdivision)  
145 MOLASSES RD. BANGOR, PA (WASHINGTON TWP.)

in NORTHAMPTON County on or about 11 June 2007 at approx. 15:00 hr.

Participants were: (if there were participants, place their names here, repeating the name of the above defendant)  
YAMRUS, JOSEPH

Defendant's Name: JOSEPH YAMRUS
Docket Number: CR-000080-07
OTN: K 481850-5



**POLICE  
CRIMINAL COMPLAINT**

2. The acts committed by the accused were:  
 (Set forth a summary of the facts sufficient to advise the defendant of the nature of the offense charged. A citation to the statute allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section and subsection of the statute or ordinance allegedly violated.)

**INSULTS TO NATIONAL OR COMMONWEALTH FLAG:**

A person is guilty of a misdemeanor of the second degree if he maliciously takes down, defiles, injures, removes or in any manner damages, insults, or destroys any American Flag or the flag of the Commonwealth which is displayed anywhere, which is in violation of the PA Crimes Code, Title 18, section 2103. (M-2)

TO WIT: The defendant, Joseph Yamrus has been displaying/flying the United States American Flag upside down at his residence which is in full public view since at least May 30, 2007 which is of great insult to this country and the flag that represents this nation.

all of which were against the peace and dignity of the Commonwealth of Pennsylvania and contrary to the Act of Assembly, or in violation of

- |    |             |              |        |              |          |
|----|-------------|--------------|--------|--------------|----------|
| 1. | <u>2103</u> | _____        | of the | <u>18</u>    | <u>1</u> |
|    | (Section)   | (Subsection) |        | (PA Statute) | (counts) |
| 2. | _____       | _____        | of the | _____        | _____    |
|    | (Section)   | (Subsection) |        | (PA Statute) | (counts) |
| 3. | _____       | _____        | of the | _____        | _____    |
|    | (Section)   | (Subsection) |        | (PA Statute) | (counts) |
| 4. | _____       | _____        | of the | _____        | _____    |
|    | (Section)   | (Subsection) |        | (PA Statute) | (counts) |

3. I ask that a warrant or a summons be issued and that the defendant be required to answer the charges I have made. (In order for a warrant of arrest to issue, the attached affidavit of probable cause must be completed and sworn to before the issuing authority.)
4. I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 PA C.C. 4904) relating to unsworn falsification to authorities.

JUNE 14, 2007

Prem. Scott S. Miller  
 (Signature of Affiant)

AND NOW, on this date JUNE 21, 2007 I certify that the complaint has been properly completed and verified. An affidavit of probable cause must be completed in order for a warrant to issue.

MY COMMISSION EXPIRES JANUARY 3, 2012

03-3-03

(Magisterial District)

(Issuing Authority)

**SEAL**

Defendant's Name: JOSEPH YAMRUS

Docket Number: CR-0000080-07



POLICE CRIMINAL COMPLAINT

OPIN: K 281850-5

AFFIDAVIT OF PROBABLE CAUSE

On May 30, 2007, this officer spoke with complainant, Tania Meixsell who wanted to report an individual who was flying The American Flag upside down which was located at 145 Molasses Rd., Bangor, (Washington Twp.). This residence was later revealed to be that of Joseph Yamrus.

Mrs. Meixsell reported that she had been driving on Molasses Rd. with her family, which included four children and husband, Scott who is currently serving active duty with the Army. Mrs. Meixsell went on further to state that she comes from a military family and this was a very disturbing and insulting revelation that their family had observed, ie: The American Flag flying upside down. This officer advised her that this officer would speak to Mr. Yamrus and request that he remove the flag and/or fly it properly. On May 30, 2007 at approximately 1100hrs., this officer went to the Yamrus residence of which nobody was at home. This officer obtained three digital photos of The American Flag flying upside down on the property of 145 Molasses Rd. (Yamrus dwelling) for report/investigative purposes.

This officer then left a phone message for Mr. Joe Yamrus in regard to the upside down US Flag. Shortly thereafter, Mr. Yamrus returned the phone call leaving a voice message for this officer. Mr. Yamrus indicated on the message that The American Flag being flown upside down is a military sign of distress and his purpose for flying the flag upside down is due to this country (USA) being in distress due to President Bush, Nancy Polosi and all other democratic politicians. He further stated that he would not remove the flag or fly it properly.

This officer then contacted complainant, Meixsell back and advised her of what Mr. Yamrus had said. She requested this officer to further investigate the matter and determine if any charges could be pursued against Mr. Yamrus. She was informed that this officer would look into the matter further.

June 9, 2007---After researching the above information, this officer concluded that Mr. Yamrus is in violation of The PA Crimes Code, Title 18, section 2103: Insults To National or Commonwealth Flag. This officer also researched The Flag

(Continued)

I, PEIM SCOTT E. MILLER 306, BEING DULY SWORN

ACCORDING TO LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FORGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Peim Scott E. Miller (Signature of Affiant) Sworn to me and subscribed before me this 21st day of JUNE, 2007. Magisterial District Judge My commission expires first Monday of January, 3, 2012 SEAL



Defendant's Name: JOSEPH YAMRUS

Docket Number: CR-0000080-07



POLICE  
CRIMINAL COMPLAINT

OTN: K 481850-5

AFFIDAVIT OF PROBABLE CAUSE

Code, Title 36, U.S.C., Chapter 10 as amended by P.L. 344 94th Congress, approved July 7, 1976. Specifically, section 176 (a) which states: The flag should never be displayed with the union down, except as a signal of dire distress in instances of extreme danger to life or property. It further notes that this pertains to active military personnel.

Upon obtaining the above information, Meixsell was asked if she wanted to pursue the matter further as the complainant to criminal charges being filed against Yamrus. Meixsell indicated that she and her husband, Scott wanted to pursue the matter and they would complete a written statement to the facts of the case. This officer received this written statement on June 11, 2007.

June 11, 2007 @ 1600hrs.--This officer contacted Mr. Joe Yamrus and advised him of the written complaint that was filed by the Meixsell's. He was once again asked to either remove the flag or fly it properly, or he may be subject to criminal actions based upon this officers' investigation. Mr. Yamrus stated that he is flying the US Flag upside down because our county is in distress due to the politicians and that it is not personally against our troops in Iraq. He was informed that although the upside down flag is an accurate form of distress for active military personnel, him flying it upside down due to his anger over the current administration is not the proper form of the flag flying upside down, and that his actions are criminal in nature. Mr. Yamrus then advised this officer to do what was necessary and if need be, he will take this matter to the US Supreme Court, because he will not take that flag down or fly it properly.

June 11, 2007 @ 1630hrs.--Mr. Yamrus came to WTPD and requested a copy of The US Flag Code of which this officer provided to him along with a copy of PA Crimes Code section 2103: Insult to National or Commonwealth Flag.

June 12, 2007--This officer obtained four photos of the upside down US Flag that resides on the property of Mr. Yamrus which borders the public roadway. While photographing the flag, Mr. Yamrus came out and spoke to this officer. He was

(Continued)

I, PTELM SCOTT E. MILLER 306, BEING DULY SWORN

ACCORDING TO LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FORGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Sworn to me and subscribed before me this

21ST

day of

JUNE

2007

PTelem Scott E. Miller  
(Signature of Affiant)

Magisterial District Judge

My commission expires first Monday of January, 2012

SEAL

Defendant's Name: JOSEPH YAMRUS

Docket Number: CR-0000080-07



POLICE  
CRIMINAL COMPLAINT

OTN: K 481850-5

AFFIDAVIT OF PROBABLE CAUSE

still refusing to remove the flag or fly it properly. Therefore, Yamrus was advised that charges will be filed against him.

The following charge will be filed:

1. 2103: Insults to National or Commonwealth Flag (M-2)

Based on the investigation, the undersigned officer requests that the defendant, Joseph Yamrus answer to the above charges.

I, PTLM SCOTT E. MILLER 306, BEING DULY SWORN  
ACCORDING TO LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FORGOING AFFIDAVIT ARE  
TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

*PTLM Scott E. Miller*

(Signature of Affiant)

Sworn to me and subscribed before me this 21<sup>ST</sup> day of JUNE, 2007

\_\_\_\_\_, Magisterial District Judge

My commission expires first Monday of January, 2012

SEAL