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Robinson settles federal lawsuit over Facebook page

By Michael O'Hearn, The Times-Georgian

A Douglas County commissioner must keep his private Facebook page separate from any pages he operates as an elected official after a Douglasville resident filed a lawsuit in federal court against him accusing him of violating her First Amendment rights.

District 2 County Commissioner Kelly Robinson was sued by Douglas County resident Brenda Bohanan after he blocked her from a Facebook page he was using in an official capacity as county commissioner.

Bohanan posted comments in the "Douglasville and Douglas County for Civic Action" public Facebook group that were critical of Robinson's responses to concerns from his constituents.

The lawsuit was settled last month, and the settlement said Robinson must "maintain a clear separation between his private Facebook page and any page he operates in his capacity as a public official," according to a release from the University of Georgia's First Amendment Clinic.

The settlement includes \$9,999 in attorney fees, and Robinson must keep his private Facebook set to be inaccessible by the public and to be used only for communicating with friends and family members.

While he holds public office, Robinson agreed as part of the settlement to maintain a disclaimer on his private Facebook page that says, "This is a personal page. For political or constituent matters, go to @commissionerkellyrobinsonofficial."

If he violates these terms, he has three days to fix the page or he will be fined \$100 a day, according to the settlement.

"The lawsuit and settlement put Georgia public officials on notice that when they operate interactive social media accounts in their official capacity, the First Amendment does not permit them to block or censor users' speech on the account based on dislike or disagreement with the view- point being expressed," the First Amendment Clinic said.

The First Amendment Clinic said courts have consistently held that when government platforms such as Facebook and Twitter to communicate with the public about their activities, this creates a designated or limited public forum.

"The settlement further provides that the commissioner will not block users

based on their protected speech or delete their comments, or otherwise limit their ability to use the interactive features -- on any public Face- book page the commissioner uses to communicate with the public about his official duties where he allows users to comment or other- wise interact with the page's content."

Attorney Clare R. Norins, a law professor and the director of the First Amendment Clinic, represented Bohanan along with Atlanta constitutional law attorney Gerry Weber.

Norins recently told the Sentinel that although the "Douglasville and Douglas County for Civil Action" forum was online, it was still a forum where people could interact with elected officials.

She said Robinson was engaging in "viewpoint discrimination" by blocking Bohanan and that violates the First Amendment because government officials cannot regulate speech by members of the public or punish constituents based on the viewpoints they are expressing.

"[Constituents] can a) express their own views and b) receive information from the elected official about the official's views," she said.

The First Amendment Clinic also said it is a violation of the First Amendment for a government official to block a constituent from participating in an online forum because of a disagreement. Government regulation of private speech must be "viewpoint-neutral," the clinic said.

"A settlement is a compromise and not every body gets what they want," Bohanan said on Friday. "We were able to get assurances from him though and then recourse if he doesn't follow through. It took a long time to get that compromise, but I am glad that it was finished before the end of 2020. It was a nice, little early Christ- mas present."

She said the goal of the lawsuit was to "get elected officials to realize they do have to follow the law" and to show constituents they can address it when they do not.

"Even though he did not admit faults, a compromise was made and it's in writing, it's a legal document, it's filed, and he has to adhere to it," she said.

Robinson did not respond to messages seeking comment for this story.