

02D03-2105-CT-000291

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Allen Superior Court
Clerk
Allen County, Indiana
BB

STATE OF INDIANA)
)SS:
COUNTY OF ALLEN) CAUSE NO. _____

JAMISON D. CHAPMAN AND LATINA EVANS,)

Plaintiffs,)

v.)

CITY OF FORT WAYNE, OFFICER SHANE)
PULVER #1799F (FWPD), ALLEN COUNTY)
SHERIFF DAVID GLADIEUX, AND “JOHN)
DOES” CORRECTIONAL OFFICERS/ALLEN)
COUNTY JAIL,)

Defendants.)

COMPLAINT

Plaintiffs Jamison D. Chapman and Latina Evans allege against Defendants that:

1. The Plaintiffs are Jamison D. Chapman and Latina Evans, who bring this Complaint against Defendants City of Fort Wayne, Officer Shane Pulver, Allen County Sheriff David Gladiuex, and “John Does” Allen County Correctional Officers for the reasons and based upon the facts set forth in the Tort Claim Notice, attached hereto and made apart here of as Exhibit A. The actions described in this Complaint and the attached Tort Claim Notice occurred in Fort Wayne Indiana. Plaintiffs currently reside in the City of Fort Wayne, County of Allen, State of Indiana.
2. The Defendants include:
 - a. City of Fort Wayne, a municipality in the state of Indiana, located at 200 East Berry Street, Suite 425, Fort Wayne, Indiana 46802. The City of Fort Wayne is named in its representative capacity as being responsible for the torts of its employee police

officers under the doctrine of *respondeat superior*, and for its unlawful practices, customs, and procedures for violating the constitutional rights of alleged protesters and innocent bystanders who were in the vicinity of the protesters.

- b. Defendant Officer Shane Pulver #1799F is a Police Officer employed by the City of Fort Wayne who is sued as a person under color of law in his individual capacity under 42 U.S.C. § 1983 for violating Plaintiff's constitutional rights to be free from excessive force under the Fourth Amendment of the United States Constitution.
- c. Defendant Sheriff David Gladiuex is sued in his representative capacity and is responsible for the torts and actions of his Correctional Officers at the Allen County Jail. The Sheriff is also liable under 42 U.S.C. § 1983 for having an unconstitutional policy, practice, custom, and/or procedure (or for failing to have necessary policies in place) regarding "rounding up" alleged protesters and using excessive force against them without cause, and punishing them for exercising their First Amendment rights, and for violating their rights to be free from excessive force under the Fourth Amendment of the United States Constitution. The Sheriff also violated Plaintiff, Jamison Chapman's constitutional right to appropriate medical care.
- d. Defendant "John Does" Allen County Correctional Officers at the Allen County Jail (whose names will be added to this Complaint when they are identified) are sued under 42 U.S.C. § 1983 for violating Plaintiff's rights to be free from excessive force under the Fourth Amendment and the Fourteenth Amendment of the United States Constitution.

3. On or about May 30, 2020 at or near the intersection of Berry Street and Clinton Street in Fort Wayne Indiana at approximately 7:00 p.m., Fort Wayne City Police Officers and Allen County Sheriff SWAT Officials teamed up to harass, brutalize, and use excessive force upon innocent protesters which included shooting tear-gas canisters at the Plaintiff who was with his wife, Latina Evans. The FWPD and the Allen County Sheriff SWAT Team also utilized rubber bullets and pepper-spray. Plaintiff Jamison Chapman and his wife were not part of the protest.
4. Near the intersection of Berry and Clinton Streets in downtown Fort Wayne, the FWPD and Allen County SWAT blocked the intersection to prevent anyone from crossing. Plaintiff and his wife, along with other individuals stuck in their vehicles, patiently waited so that they could continue driving.
5. However, the FWPD/Allen County SWAT Officials shot tear-gas at their car. Jamison Chapman and his wife, Latina Evans, and their dog could not breathe, so they were forced to exit the vehicle.
6. A man in front of the Plaintiffs' vehicle was being sprayed directly in the face at close range with pepper-spray by an officer. The man was in obvious distress and unable to breathe, so Plaintiffs walked to the man and helped escort him to safety and helped him wash the pepper-spray from his eyes. As Plaintiffs were helping the man, police shot more tear-gas and Jamison Chapman was then assaulted by three (3) officers who used excessive force in violation of his constitutional rights, and Jamison Chapman was taken away while his wife was left on the sidewalk screaming for her husband's release.
7. Defendant Fort Wayne City Police Officer Shane Pulver #1799F participated in

arresting the Plaintiff and using excessive force against the Plaintiff, Jamison Chapman. Defendant Pulver signed the Affidavit for Probable Cause against the Plaintiff in State of Indiana v. Jamison Darnell Chapman, Case No. 02D05-2006-CM-001670.

8. Plaintiffs sue Defendant City of Fort Wayne under the state law theories of false arrest and battery. The actions of the Fort Wayne Police Officers and the Crisis Response Team officers who arrested, assaulted, and beat up the Plaintiff Jamison Chapman make the City of Fort Wayne responsible under the doctrine of *respondeat superior*.
9. Defendant Officer Shane Pulver #1799F is liable in his individual capacity when he acted as a person under color of law for the City of Fort Wayne when he falsely arrested the Plaintiff and assisted other officers in assaulting and beating the Plaintiff. Officer Pulver is liable for false arrest and excessive force under 42 U.S.C. § 1983 and the Fourth Amendment of the United States Constitution.
10. After Plaintiff Jamison Chapman was arrested, assaulted, and beaten by members of the Fort Wayne City Police Department/Crisis Response Team and Defendant Shane Pulver, Plaintiff was taken to the Allen County Jail which was under the supervision and direction of Defendant Sheriff David Gladiuex. While at the Allen County Jail, Plaintiff was again beaten by Allen County Correctional Officers and perhaps other Fort Wayne City and Allen County Police Officers; his head was run into a door while he was being handcuffed; he was kicked over and over again; and he suffered seizures while being detained in the Allen County Jail. Plaintiff asked for but was denied medical care. Plaintiff was admitted to Lutheran Hospital the next day for a head injury and then taken to St. Joe Hospital for his seizures.

11. All criminal charges against Plaintiff Jamison D. Chapman were dismissed outright; Plaintiff prevailed on the merits in the criminal action; there was a total absence of probable cause upon which to arrest, assault, or detained Plaintiff Jamison Chapman. Plaintiff was incarcerated from about May 30, 2020 through June 4 or 5, 2020 at which time he bonded out. On July 28, 2020 another warrant was issued for his arrest, and he turned himself in and spent approximately another week at the Allen County Jail. The Prosecuting Attorney filed a Motion to Dismiss on August 3, 2020 and the Judge dismissed the case against the Plaintiff on August 4, 2020 under Case No. 02D05-2006-CM-001670.
12. Plaintiff Latina Evans suffered from the intentional infliction of emotional distress watching her husband being arrested, beaten, and assaulted, and then taken away for no reason, as the Plaintiffs were not participating in the protests, but rather, were merely stuck in traffic while law enforcement officers went about their business of assaulting protesters and innocent by-standers, who participated in excessive force by using rubber bullets, pepper-spray and shooting tear gas canisters in the vicinity of the Plaintiff.
13. Both Jamison Chapman and his wife Latina Evans, lost their jobs after they were unable to return to the state of North Carolina. Both Jamison Chapman and his wife, Latina Evans, incurred lost income, and other damages and injuries, including pain and suffering, emotional harm, mental anguish, emotional distress, loss of their businesses/livelihoods, and other damages and injuries.
14. Plaintiffs seek compensatory damages against the City of Fort Wayne and the Allen

County Sheriff in their representative capacities.

15. Plaintiffs seek compensatory damages and punitive damages against the individual capacity Defendants, including Fort Wayne City Police Officers and Fort Wayne Crisis Response Team Officers, as well as the Allen County Deputy Police as well as Allen County Correctional Officers who, beat, and assaulted the Plaintiff Jamison Chapman at the Allen County Jail.

WHEREFORE, Plaintiffs pray for judgment against the Defendants, and each of them, for compensatory damages, punitive damages, reasonable attorney's fees and costs and for all other just and proper relief available under the tort laws of the state of Indiana and the Fourth and Fourteenth Amendments of the United States Constitution and 42 U.S.C. § 1983, and for all other just and proper relief in the premises.

JURY DEMAND

Pursuant to Rule 38 of the Indiana Rules of Trial Procedure, Plaintiffs demand a trial by jury in this action.

Respectfully submitted,

CHRISTOPHER C. MYERS & ASSOCIATES

/s/Christopher C. Myers

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Counsel for Plaintiffs

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Allen County, Indiana
Clerk
BB

COPY

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November 24, 2020

City of Fort Wayne
Mayor Tom Henry
200 E. Berry St
Fort Wayne, Indiana 46802

Steve Reed, Chief of Police
Fort Wayne Police Department
1 East Main Street
Fort Wayne, Indiana 46803

David Gladieux
Allen County Sheriff
715 S. Calhoun Street, Rm 101
Fort Wayne, IN 46802

Re: Tort Claim Notice of Jamison Chapman and Latina Evans

TORT CLAIM NOTICE

Dear Gentlemen:

I represent Jamison Chapman and Latina Evans, husband and wife, and this letter is their Tort Claim Notice.

Date, Time, and Place of Loss:

May 30, 2020 at or near the interception of Berry Street and Clinton Street in Fort Wayne, Indiana. The time was approximately 7:00 p.m. The loss continued at the Allen County Jail where Claimant Jamison Chapman was booked, beaten, assaulted, battered, hog-tied, kicked, subjected to excessive force to the point where he passed out and had to be hospitalized at Lutheran Hospital and St. Joe Hospital.

Circumstances of Loss:

While visiting Fort Wayne, Indiana from Garner, North Carolina for a funeral, the Claimants were driving down Berry Street, downtown Fort Wayne near Clinton when they were blocked by protesters crowding the street. The Fort Wayne Police Department and/or Allen County Sheriff SWAT Team teamed up to block the intersection to prevent anyone from crossing. Complainants were stuck in their car with their car windows rolled up and waited to be able to continue driving. However, Respondents FWPD/

EXHIBIT
A

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Sheriff/SWAT Team shot tear gas canisters at their car. Claimants and their dog who was traveling in the car with them could not breathe so they were forced to exit the vehicle. A man was in front of their car being sprayed directly in his face at close range with pepper spray/teargas. Jamison Chapman was concerned for the citizen, and he walked to the man and helped escort him away from the police and helped him wash the pepper spray away from his eyes. As Jamison was helping the man, the police then shot more pepper spray Jamison's way, and then the police/FWPD/SWAT Team assaulted Jamison and took him away while his wife was left on the sidewalk screaming for her husband's release. Jamison broke no laws and was not an active part of the protests at all, but he was arrested and excessive force was used upon him, and then he was taken to the Allen County Jail.

While at the Allen County Jail, Jamison was beaten, his head was run into a door while handcuffed, he was kicked over and over, and he suffered seizures while being detained at the jail. While at the Allen County Jail, Jamison was admitted to Lutheran Hospital for head injury and then was taken to St. Joe Hospital for his seizures. Jamison lost his job. Latina Evans lost her job. They were unable to return to North Carolina. Jamison was charged with refusing to leave the scene of an emergency. All criminal charges, however, were dismissed outright. Claimant suffered physical pain from pepper spray/teargas, a rubber bullet being used, being beaten, being hog-tied and kicked in the head, having his head rammed into a steel door. Claimant was then hospitalized for approximately seventeen (17) hours. He stayed in jail until about June 4th or June 5th, 2020 at which time he bonded out. On July 28, 2020 another warrant was issued for Claimant's arrest, he turned himself in and spent approximately another week at the Allen County Jail.

Names of All Persons Involved (If Known):

Claimant Jamison Chapman
Claimant Latina Evans
Unidentified City of Fort Wayne Police Officers
Unidentified Allen County Sheriff Deputies/Officers
Unidentified SWAT Team Members
Unidentified Allen County Correctional Officers at the Allen County Jail
Unidentified Health Care Individuals from Quality Correctional Care or other third-party Health Care providers at the Allen County Jail.

Damages and injuries sustained:

Physical pain, mental suffering, effects of teargas/pepper spray, effects of rubber bullets being used on Claimant Jamison Chapman, soreness from pressure on his neck, injuries from being hog-tied, head injuries from being rammed into a steel door, contusions about his face and body from being drug through the hallway and kicked in the body and head, and other significant damages and injuries – including false arrest, false imprisonment, malicious prosecution, loss of income, loss of job, and loss of liberty.

Relief Requested:

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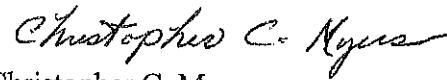
Compensatory damages, punitive damages, reasonable attorney's fees and costs, cost of the action.

Address of Claimant:

On the date of the incident, May 30, 2020, Claimants lived at 606 East Garner Road Garner, North Carolina 27529. Presently the Claimants' address is 5002 Werling Drive, Fort Wayne, Indiana 46806.

Respectfully,

CHRISTOPHER C. MYERS & ASSOCIATES



Christopher C. Myers

CCM/llk
Enclosure