

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LEWIS F. HALL, III, and
BANGONE THENGKHAM,

Plaintiffs,

v

CITY OF DETROIT, a municipal corpora-
tion, SHERON JOHNSON, CHARLES
TURNER, JR. TYRONE GRAY, and
VICKI YOST, jointly and severally,

Defendants.

POSNER, POSNER AND POSNER
By: Gerald F. Posner – P 24269
and Eric D. Frey – P 36390
Attorneys for Plaintiff

COMPLAINT AND DEMAND FOR JURY TRIAL

JURISDICTION

NOW COME plaintiffs, by and through their attorneys, Posner, Posner and Posner, and state that this action is brought pursuant to 42 U.S.C. §§ 1983, 1988 and the Fourth, Fifth and Fourteenth Amendments to the United States Constitution. Jurisdiction is founded upon 28 U.S.C. §§ 1331 and 1343 and the aforementioned statutory and constitutional provisions.

COUNT I. VIOLATION OF CIVIL RIGHTS

NOW COME plaintiffs, by and through their attorneys, Posner, Posner and Posner, and complain against the defendants herein, jointly and severally, in an action for violation of their civil rights, and says:

1. That each plaintiff is a citizen of the State of Michigan of this judicial district.
2. That the defendants are citizens of the State of Michigan and are residents of this judicial district.
3. That at all times herein, the defendants were acting in concert and/or combination and/or conspiracy with each other and/or with other persons.
4. That at all times herein, the defendants were acting under color of state law.
5. That at all times herein, the defendants were acting in bad faith.
6. That defendant City of Detroit is a municipal corporation and operates a police department known as the Detroit Police Department.
7. That on or about 2-21-09 and 2-22-09, and at all times relevant herein, defendants SHERON JOHNSON (a/k/a Sherron Johnson), CHARLES TURNER, JR., TYRONE GRAY, and VICKI YOST, each of whom is being sued in his or her individual capacity, were police officers employed by the City of Detroit and the Detroit Police Department.
8. That at all times relevant herein, the individual defendants were police officers assigned to and working in the Vice Squad (a/k/a Vice Unit a/k/a Vice) of the Detroit Police Department.

9. The Vice Squad and the individual defendant police officers have engaged in a pattern and practice of improper, illegal and unconstitutional conduct toward citizens in violation of the constitutional rights of those citizens. In general, they have engaged in a pattern and practice of excessive and unwarranted raids upon nightclubs and other retail establishments, harassment and intimidation of club owners and customers of the establishments, assaults upon and intimidation of those customers, false arrests and ticketing of customers of the establishments, as well as of the establishments themselves, and filing false police reports and committing perjury, as well as other unconstitutional conduct in reckless disregard of constitutional rights. The purposes of the acts against the customers of the establishments was to wrongfully intimidate and target the owners of the establishments, to destroy their business and to close them down even when there was no legal cause or justification to do so, and to facilitate graft, shakedowns and bribes.

10. The Vice Squad and its officers were corrupt, and the pattern and practice of the misconduct of the Vice Squad officers, including the defendant officers, was widespread and well known in the community and to the defendant City of Detroit, but the City failed to stop the practice.

11. That eventually, after the incident set forth herein, numerous officers of the Vice Squad, including defendants Turner, Yost, Johnson, and possibly Gray, were finally suspended for a period of time.

12. Each plaintiff herein is one among many victims of defendant officers.

13. On 2-21-09, plaintiffs, boyfriend and girlfriend, went to the Plan B nightclub located at Shelby and Congress in Detroit.

14. The club, and its owner, were targets of the Vice Squad and the defendant officers who wanted to wrongfully shut the club down; further that defendant Yost had given instructions for the Vice officers to do so.

15. That plaintiffs arrived at the club around 11:00 p.m.

16. There was an 18 and up event at the club, meaning that minors 18 and up would be allowed into the club but would not be allowed to purchase alcohol.

17. That plaintiff and her party were all of age, and this was to be a birthday party for her.

18. Plaintiffs went through a security line where everyone was checked for proper identification, and those of legal drinking age were given a wristband to be shown to the bartenders.

19. That the owner of the club had a high level of security inside, both uniformed and plain clothes, to make sure there were no illegal activities going on.

20. That defendant officers, as well as other officers of the Vice Squad, entered the club, and some officers were in plain clothes without any identification showing patrons that they were police officers.

21. That plaintiffs were dancing.

22. That defendant police officers Gray and Turner intentionally, wantonly, willfully, maliciously, oppressively and wrongfully beat, struck and assaulted plaintiff Hall, when there was no reason, legal justification or excuse for the use of such excessive force upon him, including that they repeatedly beat him with hard objects,

kicked him, and otherwise beat him, and handcuffed him with excessive tightness so as to cause injury and did not loosen the handcuffs after being informed that the excessive tightness of the handcuffs was causing injury, all causing serious and permanent injuries to plaintiff, both physical and mental injuries, and great pain and suffering as hereinafter set forth.

22. That defendant police officer Johnson intentionally, wantonly, willfully, maliciously, oppressively and wrongfully assaulted plaintiff Thengkham, when there was no reason, legal justification or excuse for the use of such excessive force upon her, including hitting her with her arms, grasping plaintiff in her upper body area and around her neck and shoving her against the wall, all causing serious and permanent injuries to plaintiff, both physical and mental injuries, and great pain and suffering as hereinafter set forth.

23. That defendants used unreasonable, unnecessary, excessive, and unconstitutional force against each plaintiff when no use of such force or any force was necessary.

23. That defendant officers, in an attempt to cover up their unlawful and illegal acts, including their unlawful and illegal acts in so wrongfully using excessive force on plaintiff Hall, and in order to maliciously and sadistically inflict punishment upon the plaintiff, and in reckless disregard of plaintiff's civil rights, did falsely arrest, imprison and jail, and charge plaintiff Hall with the crime of interfering with a police officer during the performance of the officer's duties, without any probable cause or basis in fact in that the officers actually knew that the plaintiff had not committed that crime, and did

then wrongfully and maliciously prosecute and/or cause the prosecution of the plaintiff on that charge.

24. That plaintiff Hall was forced to hire counsel to defend himself against the false charges.

25. That the criminal prosecution terminated in his favor in that the charges were dismissed when the defendant officers failed to appear.

26. That defendant officer Johnson, in an attempt to cover up the unlawful and illegal acts of the officers, including Johnson's unlawful and illegal acts in so wrongfully using excessive force on plaintiff Thengkham, and in order to maliciously and sadistically inflict punishment upon the plaintiff, and in reckless disregard of plaintiff's civil rights, did falsely arrest and imprison and charge plaintiff Thengkham with the crime of interfering with a police officer during the performance of her duties, without any probable cause or basis in fact in that the officer actually knew that the plaintiff had not committed that crime, and did then wrongfully and maliciously prosecute and/or cause the prosecution of the plaintiff on that charge.

27. That plaintiff Thengkham was forced to hire counsel to defend herself against the false charges.

28. That the case was tried in a bench trial in the 36th District Court before Judge Miller over a period of days beginning on 8-18-09, with closing and verdict being rendered on 8-24-09.

29. That defendants Johnson, Gray and Turner did knowingly give false testimony and commit perjury at plaintiff's trial in an attempt to falsely and wrongfully secure the plaintiff's conviction.

30. That on 8-24-09, plaintiff Thengkham was acquitted on the charge of interfering with a police officer during the performance of her duties by Judge Miller.

31. That each plaintiff had a right to be protected from intentional, wanton, willful, malicious, sadistic, purposeful, deliberate, grossly negligent, recklessly indifferent, deliberately indifferent, and wrongful conduct by the said police officers and governmental defendant which conduct resulted in injuries to each plaintiff and in violation of each plaintiff's civil rights.

32. Defendants had a duty toward each plaintiff under the United States Constitution and the federal civil rights laws, specifically including 42 USC § 1983, and the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution, to refrain from acting or failing to act so as to violate each plaintiff's civil rights.

33. Each of the defendants breached his or her duties to each plaintiff and violated each plaintiff's civil rights by his or her acts and omissions and failures to act, as pled herein.

34. Further, that at all times relevant herein, from the time of the initial incident, through the arrests, prosecutions, dismissals and acquittals, defendants had both the duty and the power to prevent or aid in the prevention of the commission of said wrongful acts against the plaintiffs, and prevent the violation of each plaintiff's civil and constitutional rights, but neglected or refused to do so.

35. That it was the policy, practice, custom and usage of defendant City to encourage, tolerate, acquiesce in and ratify violations of the civil rights of persons by conduct and inaction which was grossly negligent and/or deliberately indifferent to the civil rights of persons and to constitutional violations by their police officers, and

adopting, ratifying, or implementing such policy, practice, custom and usage, including allowing a pervasive and established pattern of constitutional violations by its officers in the Vice Squad to become a de facto policy by failing to take action against same or to prevent same which conduct and inaction included, but is not limited to:

- (a) Failure to correct unconstitutional conditions and practices.
- (b) Failure to completely and properly investigate all prior complaints of police misconduct, including misconduct by members of the Vice Squad, and/or to take proper disciplinary action against officers guilty of such misconduct.
- (c) Failure to promulgate and enforce regulations regarding the proper treatment of prisoners and citizens by officers, and for the intervention by officers who witness the mistreatment of persons at the hands of other officers or witness unconstitutional conduct and have the power to prevent same.
- (d) Failure to take proper disciplinary action against officers who had mistreated prisoners and/or citizens and committed unconstitutional conduct.
- (e) Allowing a pervasive and established pattern of constitutional violations as well as statutory violations to become a de facto policy by failing to take action against same or to prevent same.
- (f) Inadequate, grossly inadequate, or non-existent training and supervision of officers, including training and supervision with regard to the use of force.
- (g) Failing to give adequate and proper psychological tests to prospective officers.
- (h) Failing to give periodic adequate and proper psychological tests to officers in order to relieve officers found to be psychologically unfit or give them adequate treatment.
- (i) Failing to adequately and properly investigate the employment history, background and fitness of persons it hired as officers.
- (j) Failing to promulgate, follow, and enforce regulations concerning checking the employment history, background, and fitness, and psychological fitness of persons being hired as officers.

- (k) Retaining persons as officers even after their negative employment history, background, and/or fitness for duty was discovered and/or should have been discovered.

36. That the policy, practice, custom and usage of defendant City, and its conduct and inaction, was a proximate cause of the violation of each plaintiff's civil rights and of the injuries and damages to each plaintiff.

37. That each plaintiff had a right to be protected from the wrongful conduct by defendant City which conduct resulted in injuries and damages to each plaintiff.

37. That each plaintiff had the following rights, privileges and/or immunities, among others, guaranteed to plaintiff under the United States Constitution and laws of the United States:

- (a) the right to due process of law;
- (b) the freedom from illegal and/or unreasonable search and seizure of his or her person;
- (c) the freedom from arbitrary and unreasonable interference by the police;
- (d) the freedom from unnecessary force;
- (e) the freedom to be secure in one's person;
- (f) the freedom from being unlawfully assaulted and/or beaten;
- (g) the freedom from unnecessary suffering;
- (h) the freedom from unnecessary and wanton infliction of pain;
- (i) the right to equal protection of the laws; and
- (j) the right to liberty.

38. That by reason of the wrongful conduct by defendants, each plaintiff was deprived of the rights, privileges and/or immunities guaranteed to plaintiff by the United States Constitution and laws as set forth above.

39. That the wrongful conduct by defendants constituted a violation of the civil rights of each plaintiff and a violation of 42 USC §1983.

40. That the defendants, acting under color of law and right, by said wrongful conduct, deprived each plaintiff of the civil rights guaranteed plaintiff by 42 USC §1983 of the laws of the United States in effect at the time of the injuries inflicted upon the plaintiffs by said defendants, said statute reading as follows:

"Every person who, under color of any statute, ordinance, regulation, custom or usage, or any State or Territory, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

41. That as a direct and proximate result of said wrongful conduct by said defendants as pled herein, plaintiff Hall sustained serious and permanent injuries to his body and person, including but not limited to injuries to his arms, body, back, neck, head, including persistent headaches, arms and wrists, mental and psychological injuries, and aggravation of any and all pre-existing conditions of same.

42. That as a direct and proximate result of said wrongful conduct by said defendants as pled herein, plaintiff Thengkham sustained serious and permanent injuries to her body and person, including but not limited to injuries to her arms and neck, as well as mental and psychological injuries and nightmares, and aggravation of any and all pre-existing conditions of same.

43. That as a direct and proximate result of said wrongful conduct, each plaintiff has suffered, and will in the future continue to suffer, great mental anguish, fright and shock, embarrassment, humiliation, pain and suffering, denial of social pleasures and enjoyments,.

44. That each plaintiff's injuries are continuing and are permanent in nature.

45. That as a direct and proximate result of the intentional, wanton, willful, malicious, and oppressive manner in which said wrongful conduct was committed, each plaintiff suffered, and will in the future continue to suffer, additional great mental anguish, embarrassment, outrage, fright and shock, mortification, indignity and humiliation.

46. That as a direct and proximate result of said wrongful conduct, each plaintiff was forced to undergo, and will in the future continue to undergo medical and psychological treatment and care, and to incur bills for such treatment.

48. That as a direct and proximate result of said wrongful conduct, plaintiff has suffered, and will in the future continue to suffer, great loss of earnings and/or earning capacity.

49. That as a direct and proximate result of said wrongful conduct, each plaintiff incurred substantial liabilities for attorney fees.

WHEREFORE, each plaintiff asks judgment for compensatory damages as well as exemplary damages in the amount of One Million (\$1,000,000.00) Dollars against all of the defendants, jointly and severally, plus punitive damages against the individual defendants in the amount of Two Million (\$2,000,000.00) Dollars, plus actual reasonable attorney fees pursuant to 42 USC § 1988, plus statutory interest, court costs and attorney fees.

DEMAND IS HEREBY MADE FOR TRIAL BY JURY

POSNER, POSNER AND POSNER

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