

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MARC ANTHONY PRESTON,

Plaintiff,

vs.

CITY OF DETROIT, a Municipal Corporation, DAVID LEVALLEY and ANTHONY MURRAY, police officers, in their official capacities, Jointly and Severally.

Defendants.

\_\_\_\_\_  
LAW OFFICES OF CHUI KAREGA  
CHUI KAREGA P27059  
Attorney for Plaintiff  
19771 James Couzens Highway  
Detroit, MI 48235-1937  
(313) 864-0663

\_\_\_\_\_  
CITY OF DETROIT LAW DEPARTMENT  
LESLIE D. COOPER P30857  
Attorney for Defendant City of Detroit  
660 Woodward Avenue  
1650 First National Building  
Detroit, MI 48226  
(313) 237-3019

00-73932

UDDC Case No.

Hon. ARTHUR J. TARNOW

Circuit Case No. 00-019462 NO

Hon. Kaye Tertzag

MAGISTRATE JUDGE MORGAN

U.S. DIST. COURT CLERK  
EASTERN DISTRICT OF MICHIGAN

00 SEP -7 P4:36

FILED

**NOTICE OF REMOVAL**  
**OF CIVIL ACTION**

The Defendant, City of Detroit, removes this civil action to this Court pursuant to 28 U.S.C. Sec. 1441 and say that:

1. This action was commenced on June 16, 2000 in the Circuit Court for the Third Judicial Circuit of Michigan. Defendant City of Detroit was served on

August 29, 2000.

2. On information and belief, no defendant other than the defendant filing this notice has been served in this action. The information on which this belief is based is the following:
  - a. The defendant, City of Detroit, represented by the undersigned attorney removes this action, and the only defendants not now represented by the undersigned attorney are David Levalley and Anthony Murray.
  - b. On September 7, 2000, the undersigned examined the Wayne County Circuit Court file in this action. That file contained no proof of service showing service on David Levalley and/or Anthony Murray..
  - c. According to the Complaint, the defendants David Levalley and Anthony Murray are or were Detroit police officers. When a present or former Detroit police officer receives a summons and copy of the Complaint in a lawsuit that, like this one, is based on allegations having to do with the officer's or former officer's performance of his/her duties as a police officer, the officer or former officer routinely brings the summons and copy of the Complaint to the Detroit Law Department. The undersigned, who is an Assistant Corporation Counsel in the Detroit Law Department, has ordered a search of the appropriate records to determine whether David Levalley and Anthony Murray has brought a

summons and copy of the Complaint in this action to the Detroit Law Department. That search disclosed that neither of them had brought any documents concerning this lawsuit to the Detroit Law Department as of this date.

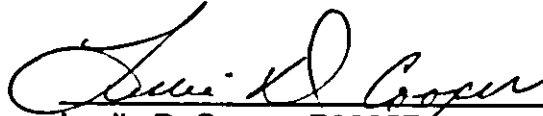
3. The Plaintiff alleges in his Complaint that he is a resident of Wayne County, Michigan.
4. This is a civil action in which the Plaintiff seeks monetary relief for the alleged misconduct of the defendants which is alleged to have resulted in the deprivation of certain rights protected by provisions of the United States Constitution. The defendant, City of Detroit, removes the action to this Court, invoking the Court's federal question jurisdiction, because the Plaintiff bases the action on the United States Constitution and on 42 U.S.C. Sec. 1983.
5. This Court has original jurisdiction of this civil action pursuant to 28 U.S.C. Sec. 1331, and the action is removable to this Court pursuant to 28 U.S.C. Sec. 1441(a) and (b).
6. Copies of all pleadings served upon the Defendant are attached. The defendant has received no orders in this action.
7. This Notice is filed within thirty days after first receipt by any defendant of a copy of the First Amended Complaint, which is the initial pleading setting forth the claim for relief upon which this action is based.
8. This action is not removed on the basis of jurisdiction conferred by 42 U.S.C. Sec. 1332 and is removed within one year after commencement of

the action.

9. The undersigned has prepared a written notice of the removal of this action, addressed to counsel for the Plaintiff and to the clerk of the court from which this action is being removed. Promptly after filing this Notice of Removal of Civil Action, the undersigned will cause copies of that written notice to be filed with the clerk of the court from which this action is being removed and mailed by first class mail to counsel for the Plaintiff.

WHEREFORE, the Defendant, City of Detroit, removes this action to this Court.

City of Detroit Law Department



Leslie D. Cooper P30857  
Attorney for Defendant City  
660 Woodward Avenue  
1650 First National Building  
Detroit, MI 48226  
(313) 237-3019

Dated: September 7, 2000



SUMMONS AND  
RETURN OF SERVICE

CA NO.

COURT  
ADDRESS: 2 WOODWARD AVENUE, DETROIT, MICHIGAN 48226

COURT  
TELEPHONE NO. (313) 224- 5192

THIS CASE ASSIGNED TO JUDGE AYE TERTZAG

Bar Number: 21342

PLAINTIFF

DEFENDANT

PRESTON MARC ANTHONY

PL 01 03

DETROIT CITY OF

IF 02

PLAINTIFF'S ATTORNEY

MARLEGA CHUI  
(P-27039)  
19771 JAMES COUZENS HWY

DETROIT MI 48235 1937  
313-864-0653

N  
A57000  
P23  
3No

RECEIVED  
AUG 29 2000  
CITY OF DETROIT  
LAW DEPARTMENT

CASE FILING FEE  
PAID

JURY FEE  
PAID

ISSUED  
6/16/00

THIS SUMMONS EXPIRES  
9/15/00

DEPUTY COUNTY CLERK  
ANTOINETTE OLSON

\*This summons is invalid unless served on or before its expiration date.

Teola P. Hunter - Wayne County Clerk

NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. YOU HAVE 21 DAYS after receiving this summons to file an answer with the court and serve a copy on the other party or to take other lawful action (28 days if you were served by mail or you were served outside this state).
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

- There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in \_\_\_\_\_ Court.
- There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.
- An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in \_\_\_\_\_ Court.

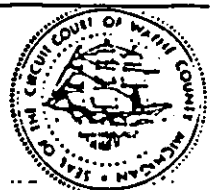
The docket number and assigned judge of the civil/domestic relations action are:

Docket no.	Judge	Bar no.

The action  remains  is no longer pending.

I declare that the complaint information above and attached is true to the best of my information, knowledge, and belief.

Date \_\_\_\_\_ Signature of attorney/plaintiff \_\_\_\_\_



COMPLAINT IS STATED ON ATTACHED PAGES. EXHIBITS ARE ATTACHED IF REQUIRED BY COURT RULE.  
If you require special accommodations to use the court because of disabilities, please contact the court immediately to make arrangements.

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

MARC ANTHONY PRESTON,  
Plaintiff,

-v-

CITY OF DETROIT, a Municipal Corporation, DAVID LEVALLEY, and ANTHONY MURRAY, police officers, In their official capacities, jointly and severally,

Defendants.

LAW OFFICES OF CHUI KAREGA  
BY: CHUI KAREGA (P27059)  
Attorney for Plaintiff  
19771 James Couzens Highway  
Detroit, Michigan 48235-1937  
(313) 864-0663

00-019462-187 2/14/00  
LITIG. CASE # 00-019462-187  
FILED IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE  
DETROIT, MICHIGAN

RECEIVED  
AUG 29 2000  
DETROIT  
1310

COMPLAINT AND JURY DEMAND

NOW COMES Plaintiff, by counsel, and states as his cause of action:

1. Plaintiff brings this action in his own behalf to recover damages for injuries sustained by him.

2. At all times Plaintiff was and at all times has been a resident of Wayne County, State of Michigan, at all times material to these proceedings.

3. At all times relevant hereto, Defendants David LeValley and Anthony Murray, has each upon information and belief, an officer of the police force of the city of Detroit, Michigan and upon information and belief, at all

times material was acting in such capacity as the employee, agent, servant, or representative of defendant, City of Detroit.

4. That defendant, City of Detroit, is a municipal corporation within the state of Michigan, and at all times relevant hereto, employed the defendant police officers as a police officer.

5. At all times material hereto, and in all actions described herein, each defendant police officer was acting under color of law, and pursuant to authority as a police officer of the City of Detroit.

6. That each defendant police officer is, upon information and belief, a resident of the City of Detroit, County of Wayne, state of Michigan.

7. That the amount in controversy herein exceeds the sum of Twenty Five Thousand Dollars (\$25,000.00), exclusive of costs and interest.

COUNT I - GROSS NEGLIGENCE

8. That on or about the 20th day of June, 1999 each defendant police officer were assigned as a patrol officer in the fourth precinct of the City of Detroit, Police Department; with duties at the Hart Plaza at Woodward and Jefferson in downtown Detroit.

9. That on the date aforescribed, Plaintiff was a patron at Hart Plaza, described above.

10. At all times material Plaintiff has been a resident of the City of Detroit, and an orderly citizen engaging in no action(s) which violate the laws of the state of Michigan or City of Detroit.

11. At all times material to these proceedings, in particular on the aforescribed date and time, defendants, and each of them, accosted, harassed, assaulted and battered Plaintiff.

12. On numerous occasions during his encounter with the police officers on the date in question, referenced above, herein, Plaintiff advised the police officers and other police officials of his infirmities, and the need for prompt attention and treatment by a qualified licensed health care professional.

13. Upon belief, despite the request(s) and notification(s) described above, the officials at the Detroit Police Department failed and refused to provide Plaintiff with prompt medical attention and/or treatment, necessitated by his medical condition then and there existing.

14. The conduct of defendants described above, was the result of complete indifference to the medical condition of Plaintiff, and the need for prompt medical attention.



15. The conduct of the defendants, and each of them occurred in the official performance of duties by those officials; and therefore the City of Detroit is responsible for the conduct.

16. The conduct of defendants described above constitutes gross negligence; actionable by law.

17. None of the defendants are immune from liability for the conduct complained of in this action.

COUNT II - DEPRIVATION OF CONSTITUTIONAL RIGHTS

Plaintiff realleges and repeats paragraphs 1 through 17 hereof, as though set forth herein, word by word, sentence by sentence, and paragraph by paragraph.

18. The actions alleged above deprived Plaintiff of the following rights under the United States Constitution:

- a. Freedom from the use of excessive  
And unreasonable force;
- b. Freedom from a deprivation of  
Liberty without due process of  
Law;
- c. Freedom from summary punishment; and
- d. Freedom from cruel and unusual punishment.

19. As a direct and proximate result of the above described unlawful and malicious acts of defendants, under color of law of their authority as police officers and/or jail authorities, Plaintiff suffered grievous bodily harm and loss of some of the ordinary pleasures of life; all of

which is in violation of his rights under laws and the Constitution of the United States of America, in particular, the First, Fourth, Fifth, Eighth, and Fourteenth amendments thereof, and 42 USC 1983, 1985(2) (3), 1986, and 1988.

20. Plaintiff was the victim of summary execution at the hands of defendants. The punishment administered was grossly disproportionate to whatever Plaintiff's acts may have been, constituted cruel and unusual punishment and deprived him of his right to due process of law under the Constitution and laws of the United States of America; in particular, the Fourth, Eighth, and Fourteenth amendments thereof.

COUNT III - NEGLIGENT TRAINING AND SUPERVISION

Plaintiff realleges and repeats paragraphs 1 through 20 hereof, as though set forth herein, word by word, sentence by sentence, and paragraph by paragraph.

21. That prior to June 20, 1999 defendant, City of Detroit, through its police department, permitted, encouraged, tolerated, and/or ratified a pattern and practice of unjustified, unreasonable, and excessive force by jail officials in that:

- e. City of Detroit failed to Discipline or prosecute or in Any manner deal with known Repeated incidents of excessive Force and/or deprivation of Medical treatment;

- f. City of Detroit failed and/or refused to investigate a significant number of previous incidents of improper conduct as alleged by Plaintiff in this action, and instead officially claimed that such incident(s) were justified and proper, upon belief;
- g. By means of both inaction and/or cover-up, officials of the Detroit police were allowed to believe indifference to the rights of residents was acceptable;
- h. By failing to render the necessary medical treatment warranted by Plaintiff's condition.

22. That, upon belief, City of Detroit, has allowed the misconduct alleged in this complaint to continue unabated.

23. That City of Detroit has not maintained any adequate system of review, or has failed to identify instances of improper withholding of medical treatment, or to discipline, more closely supervise, or retain specific jail officials or officers who in fact have improperly withheld medical treatment.

24. Upon belief, the systemic deficiencies include, but are not limited to a pattern and practice of unjustified, unreasonable, and excessive force by jail officials in that:

- i. Preparation of investigative reports designed to vindicate the withholding of necessary medical treatment, regardless of merit;

- j. Preparation of investigative reports which uncritically rely solely on the word of police or jail officials;
- k. Preparation of investigative reports which omit factual information and other evidence which contradicts the accounts of officials of the jail; and
- l. and the like;

25. As a direct and proximate result of the above described unlawful and malicious acts of defendants, under color of law of their authority as police officers and/or jail authorities, Plaintiff suffered grievous bodily harm and loss of some of the ordinary pleasures of life; all of which is in violation of his rights under laws and the Constitution of the United States of America, in particular, the First, Fourth, Fifth, Eighth, and Fourteen amendments thereof, and 42 USC 1983, 1985(2) (3), 1986, and 1988.

COUNT IV - EXEMPLARY AND PUNITIVE DAMAGES

26. The acts of defendants as set forth in the preceding counts were willful, wanton, and reckless, and in total disregard for the rights of Plaintiff.

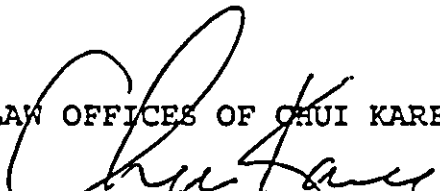
26. That as a direct and proximate result of said willful and wanton conduct, Plaintiff has suffered and continues to suffer all of the damages heretofore described in this complaint.

WHEREFORE, Plaintiff for all the above counts for mental anguish, pain and suffering, loss of society, companionship, love and affection, conscious and experienced

pain and suffering; and demands:

- a. Awarding Plaintiff damages in the Amount in excess of Twenty Five Thousand Dollars (\$25,000.00), to Which Plaintiff is found to be Entitled upon trial of this cause;
- b. Award Plaintiff punitive damages;
- c. Award Plaintiff reasonable costs  
And attorneys fees; and
- d. Granting Plaintiff such other and Further relief as my be just and Appropriate.

LAW OFFICES OF CHUI KAREGA

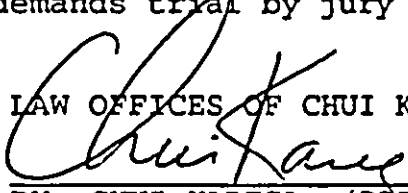
  
BY: CHUI KAREGA (P27059)  
Attorney for Plaintiff  
19771 James Couzens Highway  
Detroit, Michigan 48235-1937  
(313) 864-0663

Dated: June 15, 2000

### JURY DEMAND

NOW COMES Plaintiff and demands trial by jury on all issues in this case.

LAW OFFICES OF CHUI KAREGA

  
BY: CHUI KAREGA (P27059)  
Attorney for Plaintiff  
19771 James Couzens Highway  
Detroit, Michigan 48235-1937  
(313) 864-0663

Dated: June 15, 2000