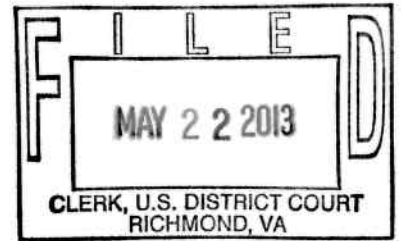


IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION



BRANDON RAUB,

*Plaintiff,*

v.

DANIEL LEE BOWEN,

RUSSELL MORGAN GRANDERSON,

JOHN DOES 1-10,

MICHAEL CAMPBELL,

LLOYD C. CHASER, and

LATARSHA MASON,

*Defendants.*

Case No. 3:13CV020

COPY

**COMPLAINT**

The Plaintiff, Brandon Raub, for his Complaint against the Defendants herein, says as follows:

**INTRODUCTION**

1. This case arises out of the retaliatory and unlawful seizure and detention of Brandon Raub ("Raub"), a citizen of the United States and a military veteran, who was seized, taken from his home and detained without probable cause and in violation of the rights guaranteed to him by the law of Virginia and by the Fourth, Fifth and/or Fourteenth Amendments of the United States Constitution. Additionally, upon information and belief, it is alleged that the baseless incarceration of Raub upon the pretext that he was mentally unstable was the result of systematic surveillance of military veterans by the government and its attempt

to suppress speech activities critical of the government's war efforts by veterans, including expression engaged in by Raub. As such, the actions taken against Raub violated his fundamental right to engage in core political speech guaranteed by the First Amendment to the United States Constitution.

2. Insofar as the unlawful seizure and/or detention of and retaliation against Raub were caused and/or carried out by Chesterfield County police officers or other persons acting under color of state law, Raub brings this lawsuit pursuant to 42 U.S.C. § 1983 to vindicate his federal rights as guaranteed by the First, Fourth and/or Fifth Amendments, made applicable to the States by the Fourteenth Amendment.

3. Insofar as the unlawful seizure and/or detention of and retaliation against Raub were caused and/or carried out by agents of the federal government, Raub brings this lawsuit directly under the First, Fourth and/or Fifth Amendments. *See, e.g., Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971) (holding that a violation of the Fourth Amendment protection against unreasonable searches and seizures by a federal agent acting under color of his authority gives rise to a cause of action for damages consequent upon his unconstitutional conduct).

4. Raub also brings a state law false imprisonment action against such Defendants as instigated, requested, directed and/or carried out the arrest and detention of Raub without legal justification.

#### **JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1343, for those claims seeking redress under the laws and statutes of the United States for the deprivation

of rights secured by the Constitution and the laws of the United States. This Court also has subject matter jurisdiction over the state law claims under 28 U.S.C. § 1367.

6. Venue properly lies in the Eastern District of Virginia under 28 U.S.C. § 1391(b), as a substantial part of the events giving rise to this action occurred within this District.

### **PARTIES**

7. Plaintiff Brandon Raub resides within Chesterfield County, Commonwealth of Virginia. He is a veteran of the United States Marine Corps, having served in both Iraq and Afghanistan.

8. Defendant Daniel Lee Bowen (“Bowen”) is a police officer for the Chesterfield County Police Department. He is sued in his individual capacity. In all respects set forth in this Complaint, Bowen acted under color of law of the Commonwealth of Virginia.

9. Defendant Russell Morgan Granderson (“Granderson”) is a police officer for the Chesterfield County Police Department. He is sued in his individual capacity. In all respects set forth in this Complaint, Granderson acted under color of law of the Commonwealth of Virginia.

10. John Does 1 - 10 are individuals whose identities are yet unknown and who participated in causing and/or carrying out the unlawful seizure and/or detention of Raub. Upon information and/or belief, John Does 1 - 10 include, but may not be limited to, agents of the Federal Bureau of Investigation and/or Secret Service.

11. Defendant Michael Campbell (“Campbell”) is a licensed psychotherapist employed by the Chesterfield Community Services Board. He is sued in his individual capacity. In all respects set forth in this Complaint, Campbell acted under color of law of the Commonwealth of Virginia.

12. Defendant Lloyd Chaser (“Chaser”) is a licensed clinical social worker employed by the Chesterfield Community Services Board. He is sued in his individual capacity. In all respects set forth in this Complaint, Chaser acted under color of law of the Commonwealth of Virginia.

13. Defendant LaTarsha Mason (“Mason”) is a social worker employed by the Chesterfield Community Services Board. She is sued in her individual capacity. In all respects set forth in this Complaint, Mason acted under color of law of the Commonwealth of Virginia.

## **FACTS**

### **The Seizure of Raub**

14. On Thursday August 16, 2012, Raub was peacefully reposed in his home in Chesterfield County, Virginia.

15. That day, a group of men, including Bowen and Gunderson as well as 7 other persons (John Does 1 -7), appeared at the front door of Raub’s home and sought entrance for the purpose of discussing with Raub his political views, including views he had expressed on various Facebook posts that were critical of the government. Bowen and Gunderson were in uniform, armed and displaying their badges of authority.

16. Upon information and belief, John Does 1 - 7 are agents of the Federal Bureau of Investigation and/or Secret Service, and they were introduced to Raub as such.

17. Upon information and belief, Bowen and Gunderson were acting at the request and instigation of one or more of the John Does then and there present (John Does 1 - 7), and/or at the request and instigation of one or more other agents of the federal government whose identities are not yet known (John Does 8 - 10).

18. Upon information and belief, the John Does then and there present (John Does 1 - 7) were acting and/or at the request and instigation of one or more agents of the federal government not then present whose identities are not yet known (John Does 8 - 10).

19. Confronted with this show of force, Raub agreed to leave his home and to speak with the officers outside of his home and within the curtilage of his home, where he freely discussed his political views at length with Bowen, Gunderson and John Does 1 - 7, including those views whereby he holds the federal government in disfavor and regards that government with suspicion.

20. At no time did Raub make any threat to do harm to any person or to himself.

21. Following a discussion of Raub's political views and approximately 15 minutes after arriving at Raub's home, Bowen and Gunderson, acting without any warrant or judicial authorization, seized Raub while Raub was within the curtilage of his residence. By force and/or a show of force, Bowen and Gunderson handcuffed Raub against his will, forced him to leave his residence and forced him into the caged portion of a police vehicle waiting outside Raub's home. At the time of this seizure, Raub was wearing only shorts and he asked to retrieve shoes and clothing; however, Bowen and Gunderson refused this request.

22. Upon information and belief, one of the John Does present (John Doe 1) placed a phone call to Campbell, who encouraged John Doe 1 and/or others with him to take Raub into custody, purportedly under Virginia laws involving mental health evaluations.

23. At the time of the phone call between John Doe 1 and Campbell, Campbell had never met, observed or evaluated Raub.

24. Bowen and/or Gunderson then transported Raub – forcibly and against his will – to one or more places of detention (e.g., police headquarters and/or jail), where his forcible detention was continued.

25. The aforesaid seizure, transportation and initial detention were carried out without informing Raub of his legal rights, without informing him any charge or complaint against him and without providing him with any basis or authorization for his arrest and detention.

26. In the seizure, transportation and detention of Raub, Bowen and Gunderson acted at the request and/or instigation of Campbell and/or one or more John Does.

27. In the seizure, transportation and detention of Raub, Bowen and Gunderson were aided and/or abetted by Campbell and/or one or more John Does.

28. At the time of the seizure, transportation and detention of Raub, none of the Defendants had probable cause to believe that Raub had committed any crime, nor did any Defendant have probable cause to believe that Raub posed a danger to himself or others, nor did any Defendant have any other legitimate or lawful basis to seize, arrest or detain him.

### **The Detention Orders**

29. Defendant Campbell evaluated Raub while Raub was detained against his will at the Chesterfield County Jail, sometime in the evening of August 16, 2012.

30. At some time during Raub’s detention at Chesterfield County Jail – believed to be around midnight – Campbell filed a petition seeking Raub’s temporary detention and involuntary admission to a mental health facility pursuant to Virginia Code §§ 37.2-805 *et seq.* (“August 16 Petition”).

31. In the August 16 Petition, Campbell alleged (i) that Raub had a mental illness and was in need of hospitalization or treatment, (ii) that there existed a substantial likelihood that, as

a result of mental illness, Raub would, in the near future, cause serious physical harm to others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, and (iii) that Raub would suffer serious harm due to his lack of capacity to protect himself from harm or provide for his own basic human needs. *See* “August 16 Petition” attached as Exhibit A.

32. The August 16 Petition was accompanied by a “report” in which Campbell alleged that Raub was “psychotic.” Yet, in support of that “diagnosis,” the only “significant clinical finding” cited by Campbell was that Raub “had long pauses before answering questions” and that he was “very labile w/ the secret service.” Campbell also noted that the FBI and Secret Service began investigating Raub because they wanted Raub to explain his recent posts on Facebook.

33. Campbell lacked probable cause to make the allegations that he set forth in the August 16 Petition and/or report against Raub.

34. On information and belief, Campbell petitioned for Raub’s detention at the request and/or instigation of one or more John Does, who also lacked probable cause to make the allegations set forth in the August 16 Petition and report against Raub. Instead, the baseless allegation that Raub had a mental illness and posed a threat of harm to others or himself was a pretext designed to silence Raub’s speech critical of the government by subjecting him to involuntary commitment.

35. Based upon the “bare bones” and conclusory August 16 Petition filed by Campbell and Campbell’s accompanying report, a magistrate issued a Temporary Detention Order at 12:11 a.m. on August 17, 2012. *See* Exhibit B.

36. Pursuant to the Temporary Detention Order, Raub was transported, against his will, to John Randolph Medical Center.

37. The Temporary Detention Order served as the basis to deprive Raub of his liberty until August 20, 2012. At that time, a hearing was held on a newly-filed Petition for Involuntary Admission for Treatment of Raub ("the August 20 Petition" attached as Exhibit C).

38. The persons formally responsible for the August 20 Petition were Defendants Chaser and Mason, both of whom acted under color of state law as employees of the Chesterfield Community Services Board.

39. Chaser and Mason lacked probable cause to file the August 20 Petition against Raub.

40. On information and belief, Chaser and Mason filed the August 20 Petition at the request and/or instigation of one or more John Does, who also lacked probable cause to file that petition against Raub. Indeed, the John Does sought to label Raub as mentally ill and continue his incarceration and commitment because of their desire to suppress and chill Raub's political views critical of the government, and the August 20 petition constituted retaliation against Raub for his constitutionally-protected speech.

41. At the conclusion of the hearing on the August 20 Petition, the Special Justice hearing the matter entered an Order further depriving Raub of his liberty by requiring civil commitment and involuntary treatment for up to 30 days ("August 20 Order"). Copy attached as Exhibit D.

42. Pursuant to the August 20 Order, Raub was transferred, against his will, to Salem Veterans Administration Medical Center in Salem, Virginia, thus isolating Raub from his family, friends, and attorneys.



**The State Circuit Court Orders Raub Released  
and Dismisses the Petition.**

43. On August 22, 2012, Raub's legal counsel filed a notice of appeal of the August 20 Order, as well as a motion to suspend and/or modify that Order pending appeal.

44. On August 23, 2012, Raub's legal counsel appeared before the Circuit Court of the City of Hopewell ("the Circuit Court") on Raub's motion to suspend and/or modify the August 20 Order pending appeal.

45. On August 23, 2012, one full week after Raub was seized and taken from his home, the Circuit Court found that the August 20 Petition was "so devoid of factual allegations that it could not reasonably be expected to give rise to a case or controversy." The Court therefore dismissed the August 20 Petition and ordered Raub's immediate release. *See* Circuit Court Order, attached hereto as Exhibit E.

46. Raub has no history of mental illness and has never been treated or sought treatment for mental illness.

47. At no time has any person offered evidence that Raub has harmed or threatened to do harm to any person.

48. As a result of the action of the Defendants as described herein, Raub has sustained pecuniary and non-pecuniary losses, including, but not limited to costs associated with the legal proceedings, emotion distress including emotional pain, suffering, inconvenience, mental anguish and loss of enjoyment of life.

**Surveillance of Veterans**

49. On information and belief, the actions against Raub were initiated by one or more John Does, acting as agents of the federal government, as part of a program launched by the Department of Homeland Security (the "Department") and having the ironic misnomer

“Operation Vigilant Eagle.” This program calls for surveillance of military veterans returning from Iraq and Afghanistan in an effort to ferret out disgruntled American veterans who are vocal in their concerns and criticisms about the increased power and authority of the federal government.

50. This program is, in part, a response to the Department’s report on “Rightwing Extremism,” which broadly defines such “extremism” to include individuals and groups “that are mainly anti-government, rejecting federal authority in favor of state or local authority, or rejecting government authority entirely.” See Cam Simpson & Gary Fields, *Veterans a Focus of FBI Extremist Probe*, Wall Street Journal, Apr. 17, 2009, available at <http://online.wsj.com/article/SB123992665198727459.html>.

51. Included in the Department’s discussion of “Rightwing Extremism” is a focus on returning “military veterans.”

52. Before his arrest on August 16, 2012, Raub used his Facebook account to post his political views, including views that may be fairly described as “anti-government.”

53. On information and belief, Raub attracted the attention of one or more John Does, acting as agents of the federal government, because he posted such views and was a military veteran. This allegation is supported, for example, by the fact that, when they interrogated Raub at his home on August 16, the Defendants wanted to talk about his military service as well as the political views he had posted on Facebook.

54. On information and belief, Raub was unlawfully seized because of, and/or in retaliation for, his political views and that the allegation that he was mentally ill was a pretext designed to suppress and chill his constitutionally-protected speech and to defame and discredit him and his beliefs. A seizure motivated by an intent to retaliate against and suppress conduct

protected by the Constitution represents willful and wanton misconduct, malice and/or bad faith so as to entitle him to punitive damages. The retaliatory actions against Raub served not only to silence Raub, but to chill the speech of other citizens, particularly military veterans, who desire to speak out against the government and its prosecution of foreign wars.

55. On information and belief, Operation Vigilant Eagle is ongoing and continues to conduct surveillance and retaliation against returning military veterans who express concern and criticism about the federal government.

56. Raub will, as allowed by the First Amendment, continue to engage in speech and expression critical of government policies with which he disagrees, and, as a result faces a continuing threat of the same kind of retaliation from officers and agents of the federal and state government that resulted in his involuntary, unjustified and illegal seizure and detention in August 2012.

## **FIRST CAUSE OF ACTION**

### **Unlawful Seizure under the Fourth Amendment – Color of State Law**

57. The allegations of the foregoing paragraphs are re-alleged as if set out in full.

58. The actions of Defendants, as alleged herein, deprived Raub of his constitutional rights to be free from unreasonable seizure and not to be deprived of his liberty without due process of law, as guaranteed by the Fourth, Fifth and Fourteenth Amendments.

59. The actions of Defendants Bowen, Granderson, Campbell, Chaser and Mason – as well as the actions of one or more John Doe Defendants who acted in concert with them – were committed under color of state law so as to give rise to liability under 42 U.S.C. § 1983.

60. As the proximate result of said actions, Raub has sustained the damages previously set forth.

61. Pursuant to 42 U.S.C. § 1988, Raub is entitled to attorneys' fees and costs, including expert fees, incurred in bringing the claims alleged in this count.

## **SECOND CAUSE OF ACTION**

### **Unlawful Seizure under the Fourth Amendment – “*Bivens*” Claim**

62. The allegations of the foregoing paragraphs are re-alleged as if set out in full.

63. The actions of Defendants, as alleged herein, deprived Raub of his constitutional rights to be free from unreasonable seizure and not to be deprived of his liberty without due process of law, as guaranteed by the Fourth and/or Fifth Amendments.

64. If any of the John Doe Defendants did not act under color of state law, then to the extent such Defendant is an agent of the federal government, he/she is liable to Raub under the Fourth and/or Fifth Amendments in that he/she abused his/her authority to deprive Raub of his constitutional rights to be free from unreasonable seizure and not to be deprived of his liberty without due process of law.

65. As the proximate result of said actions, Raub has sustained the damages previously set forth.

## **THIRD CAUSE OF ACTION**

### **Deprivation of Right to Freedom of Speech under the First Amendment**

66. The allegations of the foregoing paragraphs are re-alleged as if set out in full.

67. The actions of Defendants as alleged herein were an effort to discredit, silence and punish Raub for the content and viewpoint of his political speech using the pretextual and false allegation that Raub was suffering from a mental illness and was subject to involuntary commitment under Virginia law.

68. Defendants' acts of surveillance, intimidation, retaliation and censorship were undertaken with the intent and purpose to silence the political speech of Raub and to chill the speech of others that is critical of the government.

69. The actions of Defendants in this respect were committed under color of state law and/or the law of the United States of America and deprived Raub of his right to freedom of speech and expression guaranteed by the First Amendment to the United States Constitution.

70. As the proximate result of said actions, Raub has sustained the damages previously set forth.

#### **FOURTH CAUSE OF ACTION**

##### **False Imprisonment, State Law**

71. The allegations of the foregoing paragraphs are re-alleged as if set out in full.

72. By their use of force and threats of force as described herein, one or more Defendants – including, but not limited to Bowen and Granderson – instigated, requested, directed and/or carried out the arrest and detention of Raub, thereby imposing restraints upon Raub's liberty, without legal justification.

73. Such Defendants did so – either deliberately or negligently – without probable cause to believe that Raub had committed any crime or posed a danger to himself or others and without any other sufficient legal excuse.


74. The aforesaid acts of Defendants were beyond the scope of their employment, exceeded their authority or discretion and/or were committed wantonly or in a culpable or grossly negligent manner.

75. As the proximate result of said actions, Raub has sustained the damages previously set forth. Defendants therefore are liable to Raub for actual damages as well as punitive damages, based on false imprisonment as defined by applicable state law.

### PRAYER FOR RELIEF

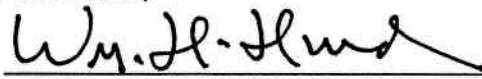
WHEREFORE, Plaintiff prays that judgment be entered against Defendants as follows:

1. That this Court award Plaintiff compensatory and/or punitive damages in such amounts as shall be shown by the evidence at trial;
2. That this Court enter an injunction prohibiting Defendants and any officers and/or agents acting on behalf of or in conjunction with Defendants from unreasonably seizing Plaintiff and/or retaliating against Plaintiff because of Plaintiff's exercise of rights and privileges protected by the Constitution and laws of the United States.
3. That this Court order Defendants to pay Plaintiff's attorneys' fees and costs, including expert fees, pursuant to 42 U.S.C. § 1988; and
4. That this Court order any and all such other and further relief as it may deem proper.



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Dated: May 21, 2013