

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION**

GREGORY V. TUCKER,))
)	CIVIL ACTION NO.
<i>Plaintiff,</i>)	JUDGE
v.)	MAGISTRATE JUDGE
CITY OF SHREVEPORT, a municipal corporation, C. B. CISCO, an officer and agent of the City of Shreveport Police Department, Badge No. 1398, W. MCINTIRE, an officer and agent of the City of Shreveport Police Department, Badge No. 1324, Y. JOHNSON, an officer and agent of the City of Shreveport Police Department, Badge No. 1436, and T. KOLB, an officer and agent of the City of Shreveport Police Department, Badge No. 1322,))
))
<i>Defendants.</i>))
))

COMPLAINT AND DEMAND FOR JURY TRIAL

COME NOW the Plaintiff, Gregory V. Tucker, by and through the undersigned attorney, and alleges and avers as follows:

Introduction

1. This action seeks to vindicate the Plaintiff's rights under the Constitution of the United States and the laws of the State of Louisiana. The Plaintiff was deprived of those rights by the Defendants, who, acting jointly and in concert, executed a seizure of the Plaintiff using unreasonable and excessive force in violation of the Fourth Amendment to the United States Constitution, causing personal injury and damage to the Plaintiff. Additionally, the Defendants'

actions constituted excessive force and battery against the Plaintiff, resulting in personal injury and damage to the Plaintiff. For these deprivations and the resulting injuries and damages, the Plaintiff seeks relief under 42 U.S.C. § 1983 and under the laws of the State of Louisiana.

Jurisdiction and Venue

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343, as it is an action seeking redress under the laws and statutes of the United States for the deprivation of rights secured by the Constitution and laws of the United States.

3. This Court has supplemental jurisdiction over the claims arising under the law of the State of Louisiana under 28 U.S.C. § 1337, as these claims are so related to the claims over which the court has original jurisdiction that they form part of the same case or controversy.

4. Venue properly lies in the Western District of Louisiana under 28 U.S.C. § 1331(b), as all Defendants reside within the Western District of Louisiana and a substantial part of the events giving rise to this action occurred within this District. This action is properly filed in the Shreveport Division of said District as the events at issue occurred within Shreveport, Louisiana.

Parties

5. Plaintiff Gregory V. Tucker is an adult male citizen of the United States who resides at 1650 Weinstock St., Shreveport, Louisiana.

6. Defendant City of Shreveport, Louisiana, is a municipal corporation created and existing under a charter issued by the State of Louisiana. Defendant City of Shreveport is empowered under Article 11 of its charter to operate the City of Shreveport Police Department and to appoint and employ police officers to carry out the functions of the police department. In all respects set forth in this Complaint, the City of Shreveport acted under color of the law of the State of Louisiana.

7. Defendant C. B. Cisco is an adult male who at all times set forth in this Complaint was employed and acting as a law enforcement officer with the City of Shreveport Police Department with Badge No. 1398. In all respects set forth in this Complaint, Defendant Cisco acted within the course and scope of his employment by the Defendant City of Shreveport and under color of the laws of the State of Louisiana. Defendant Cisco is sued in this case in his individual and official capacities.

8. Defendant W. McIntire is an adult male who at all times set forth in this Complaint was employed and acting as a law enforcement officer with the City of Shreveport Police Department with Badge No. 1324. In all respects set forth in this Complaint, Defendant McIntire acted within the course and scope of his employment by the Defendant City of Shreveport and under color of the laws of the State of Louisiana. Defendant McIntire is sued in this case in his individual and official capacities.

9. Defendant Y. Johnson is an adult male who at all times set forth in this Complaint was employed and acting as a law enforcement officer with the City of Shreveport Police Department with Badge No. 1436. In all respects set forth in this Complaint, Defendant Johnson acted within the course and scope of his employment by the Defendant City of Shreveport and under color of the laws of the State of Louisiana. Defendant Doe is sued in this case in his individual and official capacities.

10. Defendant T. Kolb is an adult male who at all times set forth in this Complaint was employed and acting as a law enforcement officer with the City of Shreveport Police Department with Badge No. 1322. In all respects set forth in this Complaint, Defendant Kolb acted within the course and scope of his employment by the Defendant City of Shreveport and under color of the

laws of the State of Louisiana. Defendant Kolb is sued in this case in his individual and official capacities.

Facts

11. On December 1, 2016 at approximately 12:33 a.m., Defendant Cisco, while driving a Shreveport Police Department vehicle, spotted Plaintiff Tucker driving his vehicle within the City of Shreveport. Defendant Cisco believed that a taillight on Plaintiff Tucker's vehicle was not operating. As a result, Defendant Cisco flashed the lights on his police vehicle, signaling for Plaintiff Tucker to pull over.

12. Plaintiff Tucker slowly and calmly drove to his cousin's house rather than pulling over immediately because he did not feel safe pulling over in the area where Defendant Cisco initially turned on his lights. At approximately 12:35, and after finding a well-lit area to pull over, Plaintiff Tucker pulled over into the driveway of his cousin's house.

13. Defendant Cisco thereafter ordered Plaintiff Tucker to get out of his vehicle. After Plaintiff Tucker exited his vehicle, Defendant Cisco searched the Plaintiff's person and his vehicle. Defendant Cisco then ordered Plaintiff Tucker to move to the front of the police vehicle, where the events could be recorded by a camera in the police vehicle, and ordered Plaintiff Tucker to place his hands on the hood of the police vehicle. Defendant Cisco proceeded to search the person of Plaintiff Tucker. During this time, Plaintiff Tucker expressed his frustration to the officer over his treatment.

14. Less than thirty seconds later Defendants McIntire and Johnson arrived at the scene in their police vehicle.

15. Upon arrival, Defendants McIntire and Johnson immediately walked up behind Plaintiff Tucker to restrain him. Defendant McIntire grabbed Plaintiff Tucker's arm in order to

place handcuffs on him. At this time Plaintiff Tucker was restrained by two officers and a third officer was present for additional police support.

16. Plaintiff Tucker was then thrown to the ground by Defendants Cisco and McIntire, less than twenty seconds after McIntire and Johnson arrived. Defendants Cisco and McIntire then proceed to punch Plaintiff Tucker multiple times to the head and body. They were also yelling at him over and over to “quit resisting.”

17. At this time, Defendant Kolb, arrived on scene, and immediately jumped into the fray and began punching Plaintiff Tucker as he lay on the ground and was being restrained by Defendants Cisco, Johnson and McIntire.

18. Plaintiff Tucker was distraught and repeatedly asked the police officers “Why ya’ll do me like this.” In response, one of the officers replied ‘That’s what happens when you resist.’

19. After being handcuffed and beaten, Plaintiff Tucker was lifted off the pavement by the police officers and placed into the back of Defendant Cisco’s vehicle. A dashcam video of Plaintiff Tucker at this time shows obvious bleeding and injuries to the face and head of Plaintiff Tucker.

20. Plaintiff Tucker repeatedly told the police officers there was no reason for the level of violence and force they used against him and told them that he “doesn’t even have any charges.” One of the officers then stated that he (the Plaintiff) tried to pull away when they went to handcuff him. Defendant Cisco then ask Plaintiff Tucker for his name, to which Plaintiff Tucker replied that the police officers had his license. Defendant Cisco then yelled and cursed at Plaintiff Tucker, claiming that the Defendants did not have his driver’s license.

21. A few minutes later, emergency medical technicians arrived to clean Plaintiff Tucker's face up and attend to his injuries. Plaintiff Tucker informed these persons that he believed his arm was broken and that he needed medical assistance.

22. Defendant Cisco thereafter reentered his police vehicle and drove Plaintiff Tucker to the hospital, where they arrived at approximately 1:04 a.m.

23. As a result of the force and violence employed by the Defendant police officers in the course of seizure described above, Plaintiff Tucker suffered severe physical and emotional injuries, including trauma to his head, face and arm, which required treatment at the hospital.

First Cause of Action

Deprivation of Fourth Amendment Rights – 42 U.S.C. § 1983

23. The Plaintiffs re-allege and incorporate by reference the allegations in ¶¶ 1-23.

24. In the course of executing the seizure of Plaintiff Tucker, the Defendant police officers used excessive and unreasonable force which resulted in physical and emotional injuries to Plaintiff Greg Tucker, thereby depriving the Plaintiff of his rights under the Fourth Amendment to the United States Constitution.

25. In conducting the seizures of the Plaintiff, the Defendant police officers acted under color of the law of the State of Louisiana.

26. In employing excessive and unreasonable force, the Defendant police officers acted with reckless and callous indifference to the rights of Plaintiff Tucker under the Fourth Amendment to the United States Constitution.

27. The deprivation of Plaintiff Tucker's rights under the Fourth Amendments resulted from and were caused by a policy, custom and/or practice of Defendant City of Shreveport, in that the decision to employ unreasonable and excessive force by the Defendant

police officers resulted from (a) the Defendant City and its Police Department's inadequacy of police training with respect to the manner in which police conduct arrests, and/or (b) a custom and practice of the Defendant City and its Police Department to condone and fail to discipline police officers for using excessive and unreasonable force in the course of arresting and seizing persons. The Defendant City's policy, practice and custom of failing to train and/or condoning the use of excessive force by officers of the City Police Department amounts to deliberate indifference to the rights of persons who police come in contact with.

28. As the proximate result of the aforesaid actions, policies, customs and practices of the Defendants, Plaintiff Tucker sustained significant physical and emotional harm.

29. The Defendants acted with reckless and callous indifference in depriving the Plaintiff of his Fourth Amendment rights.

30. As a result of the deprivations of the Plaintiff's Fourth Amendment rights, he has suffered damages for which he is entitled to relief against the Defendants under 42 U.S.C. § 1983.

Second Cause of Action

Excessive Force and Battery

31. The Plaintiffs re-allege and incorporate by reference the allegations of ¶¶ 1-30.

32. In effecting the seizure of Plaintiff Tucker, the Defendant police officers used unreasonable and clearly inappropriate and excessive force, and did so willfully, intentionally and with malice, making harmful and offensive contact with the person of Plaintiff Tucker. The Defendant police officers violated plaintiffs' rights under Article One Section 5 of the 1974 Louisiana Constitution and La. C.C. Art. 2315 and thereby committed a battery.

33. The Defendant City of Shreveport, as employer of the Defendant police officers, is liable for the injuries resulting from the battery committed by the Defendant police officers within the course and scope of their employment by the Defendant City of Shreveport.

34. As a result of the wrongful conduct of the Defendants, the Plaintiff Greg Tucker has suffered damages for which he is entitled to relief under the laws of the State of Louisiana against the Defendants.

WHEREFORE Plaintiff requests that judgment be entered against the Defendants as follows:

- a) That this Court award the Plaintiffs pecuniary and compensatory for the damage and harm suffered by the Plaintiffs in an amount to be determined at trial;
- b) That this Court award the Plaintiffs punitive damages in an amount to be determined at trial;
- c) That this Court award the Plaintiffs attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and any other state or federal law authorizing the Plaintiffs to recover such fees and costs; and
- d) That this Court order any and all such other and further relief deemed proper under the facts and law.

Dated: November 13, 2017

RESPECTFULLY SUBMITTED,

/s Gregory J. Chiartano, Esq.

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