

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Harrisonburg Division

GORDON GOINES,

Plaintiff,

v.

Case No. 5:14CV00065

VALLEY COMMUNITY SERVICES BOARD,

DAVID SHAW,

ROBERT DEAN,

D.L. WILLIAMS,

JENNA RHODES,

and

JOHN DOES 1-10,

Defendants.

COMPLAINT

The Plaintiff, Gordon Goines, for his Complaint against the Defendants herein, states as follows:

INTRODUCTION

1. This case arises out of the unlawful seizure and detention of Gordon Goines, a resident of the Commonwealth of Virginia and citizen of the United States. On May 15, 2014, Goines was seized, taken from his home, and detained for

six days against his will, without probable cause and in violation of the rights guaranteed to him by the law of Virginia and by the Fourth, Fifth and Fourteenth Amendments of the United States Constitution.

2. Insofar as the unlawful seizure and detention of Goines was caused or carried out by Waynesboro City police officers or other persons acting under color of state law, Goines brings this lawsuit pursuant to 42 U.S.C. § 1983 to obtain relief for deprivation of his rights under the Fourth and Fourteenth Amendments to the United States Constitution.

3. Goines also brings a state law false imprisonment action against those Defendants who instigated, requested, directed, carried out or otherwise caused the seizure and detention of Goines without legal justification.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1343, for those claims seeking relief 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.

5. Venue properly lies in the Western 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

6. Plaintiff Gordon Goines is an African-American male age 37. At all times relevant to this Complaint he resided within Augusta County,

Commonwealth of Virginia.

7. Defendant David Shaw is a police officer employed by the City of Waynesboro Police Department and is sued herein in his individual capacity. In all respects set forth in this Complaint, Shaw acted under color of law of the Commonwealth of Virginia.

8. Defendant Robert Dean is a police officer employed by the City of Waynesboro Police Department and is sued herein in his individual capacity. In all respects set forth in this Complaint, Dean acted under color of law of the Commonwealth of Virginia.

9. Defendant John Doe 1 is a police officer employed by the City of Waynesboro Police Department and is sued herein in his individual capacity. The police report referenced herein identifies John Doe 1 as “Officer Scott.” In all respects set forth in this Complaint, John Doe 1 acted under color of law of the Commonwealth of Virginia.

10. Defendant D.L. Williams is a police officer employed by the City of Waynesboro Police Department and is sued herein in his individual capacity. In all respects set forth in this Complaint, Williams acted under color of law of the Commonwealth of Virginia.

11. Defendant Jenna Rhodes is Emergency Services and Intake Clinician employed by the Valley Community Services Board. Upon information and belief, at all times relevant to this Complaint, Rhodes was not a licensed mental health professional under the laws of the Commonwealth of Virginia. She is sued in her individual and official capacities. In all respects set forth in this Complaint, Rhodes

acted under color of law of the Commonwealth of Virginia.

12. Valley Community Services Board is a governmental entity created and existing under the law of the Commonwealth of Virginia and which is responsible for appointing and training persons to conduct evaluations of persons in connection with involuntary temporary detention orders under Va. Code § 37.2-809. In all respects, Valley Community Services Board acts under color of law of the Commonwealth of Virginia.

13. John Does 2 - 10 are individuals whose identities are yet unknown and who participated in causing or carrying out the unlawful seizure or detention of Goines. Upon information or belief, John Does 2 - 10 include, but may not be limited to, agents of the Waynesboro Police Department or Valley Community Services Board.

FACTS

Goines' Medical Condition

14. Goines suffers from cerebellar ataxia, a neurological condition similar to multiple sclerosis or Lou Gehrig's Disease.

15. As a result of this disorder, Goines has difficulty at times with his balance, speech, and certain fine motor functions. The disorder sometimes makes it difficult for him to maintain a normal upright posture when walking, causing him to walk with an unsteady, lurching gait. Also as a result of this disorder, Goines speaks slowly. He must concentrate to form his words, and his speech is sometimes slurred. The disorder also makes certain fine motor functions challenging for Goines, such as handwriting and buttoning clothes.

16. The impacts of cerebellar ataxia are purely physiological. The disorder does not affect Goines' cognitive functioning. He is a man of above average intelligence, mentally stable, and acutely aware of the world around him. He has no "mental health issues."

The Seizure of Goines

17. On or about Thursday, May 15, 2014, Goines was peacefully reposed in his home in Waynesboro, Virginia.

18. While watching television that week, Goines had noticed a problem with his cable service. Specifically, his service would intermittently disconnect throughout the day. During these periods of disconnection, the television would freeze and produce extremely loud line noise and signals. Because his service was disconnected, Goines was not able to unfreeze the television by turning it off and on or by changing the channels. Goines notified Comcast, his cable service provider, about the problem.

19. On or about Thursday, May 15, 2014, Comcast dispatched a field tech to Goines' residence. The field tech examined the conjunction box, located on the outside of Goines' apartment building, and determined that one of Goines' neighbors had spliced the cable running to Goines' apartment. In other words, the neighbor was stealing Goines' cable. This was the cause of the constant disconnections, loud line noise, and signals that Goines' television produced whenever he turned it on.

20. The field tech told Goines there was nothing he could do to fix the problem without entering the neighbor's apartment, which the field tech was not

legally authorized to do.

21. The field tech recommended that Goines notify the police of the cable theft.

22. The City of Waynesboro Police Department is located across the street from Goines' residence. That afternoon, May 15, 2014, Goines walked to the Waynesboro Police Department to report the cable theft.

23. Goines reported the cable theft to Officer Feazell of the Waynesboro Police Department. Goines explained to Feazell that he did not feel comfortable confronting his neighbor about the cable theft, because he did not know how the neighbor would react. Goines told Feazell he did not want to "get in a fight" with the neighbor. Therefore, he was reporting the theft to the police so that the police could handle it.

24. Feazell contacted Defendants Shaw and Dean. According to an incident report later prepared by Shaw, Feazell advised Shaw and Dean that Goines "seemed to have some mental health issues going on over an issue with a television."

25. Defendants Shaw and Dean approached Goines in the lobby of the police department. Shaw asked Goines if he and Dean "could go over to [Goines'] apartment and he could show us what was going on." Goines agreed.

26. Shaw and Dean followed Goines to his apartment. Shaw and Dean apparently ignored or did not take the time to understand Goines' complaint. According to the incident report later prepared by Shaw, Goines told them "there was a clicking noise in the wall because someone outside was controlling his T.V."

27. Shaw and Dean did not hear the line noise and signals, because they did not turn on Goines' television.

28. Instead, Shaw and Dean asked Goines if he "had any mental health issues" or "had a doctor for issues." Goines told them he did not.

29. Nevertheless, according to the incident report later prepared by Shaw, Shaw and Dean concluded that Goines was "having irrational issues and hearing things."

30. Shaw asked Goines if he "wanted to talk to someone."

31. Goines reasonably understood Shaw to be asking if he wanted to "talk to someone" about the cable theft. Goines stated that he did.

32. Following this "investigation" of Goines' complaint about his neighbors' cable theft, Shaw and Dean, acting without any warrant or judicial authorization, seized Goines while Goines was within the curtilage of his residence. By force and/or a show of force, handcuffed Goines against his will, escorted him back to the police station, and forced him into the caged portion of a police vehicle in the parking lot.

33. Goines told Dean he wanted to go home and asked Shaw and Dean to let him out of the car. Dean told Goines "that wasn't an option."

34. At no time did Goines make any threat to do harm to any person or to himself.

35. Upon information and belief, Dean or Shaw placed a phone call to one of the John Does (John Doe 2), who encouraged Shaw and Dean to take Goines into custody, purportedly under Virginia laws involving mental health evaluations.

36. At the time of the call between Shaw or Dean and John Doe 2, John Doe 2 had never met, observed or evaluated Goines.

37. Dean and / or Shaw then transported Goines - forcibly and against his will - to one or more places of detention, before delivering him to Augusta County Medical Center, where Goines was strip searched, handcuffed to a table, and his forcible detention was continued.

38. Upon information and belief, Dean or Shaw then placed a phone call to one of the John Does, and requested a background check on Goines. The background check revealed that Goines had no criminal record whatsoever. The background check also revealed that Goines owned a registered firearm. When Dean or Shaw interrogated Goines about the firearm, Goines explained he purchased it in or around 2010 when he worked as a security guard in Albemarle County. Goines further explained that he kept the firearm locked in a safe at his residence.

39. When this answer did not appear to satisfy Dean or Shaw, Goines told them “if there was a problem with the firearm, they could have it [the firearm].” Goines told Dean and Shaw he simply wanted to go home.

40. Goines repeatedly stated to Dean and others at the hospital that he wanted to go home.

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

42. In the seizure, transportation and detention of Goines, Shaw and Dean acted at the request or instigation of John Doe 2 or one or more John Does.

43. In the seizure, transportation and detention of Goines, Shaw and Dean were aided or abetted by John Doe 2 or one or more John Does.

44. At the time of the seizure, transportation and detention of Goines, none of the Defendants had probable cause to believe that Goines had committed any crime, nor did any Defendant have probable cause to believe that Goines 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 Order

45. At around 6:15 pm, Defendants John Doe 1 and Williams came to the hospital and relieved Dean.

46. Defendant Rhodes, acting as the designee and employee of Defendant Valley Community Services Board, evaluated Goines while Goines was detained against his will at August County Medical Center, at approximately 6:00 p.m. May 15, 2014.

47. At some time during Goines' detention at August County Medical Center - believed to be around 8:30 pm - Rhodes or one of the John Does filed a petition seeking Goines' temporary detention and involuntary admission to a mental health facility pursuant to Virginia Code § 37.2-809 ("May 15 Petition").

48. The May 15 Petition alleged (i) that Goines had a mental illness and was in need of hospitalization or treatment, (ii) that there existed a substantial likelihood that, a result of mental illness, Goines 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 Goines would suffer serious harm due to his lack of capacity to protect himself from harm or provide for his own basic human needs. See “May 15 Petition” attached as Exhibit A.

49. The May 15 Petition was accompanied by a Preadmission Screening Report completed by Rhodes, which included the “diagnosis” that Goines had a “Psychotic Disorder NOS (298.9).” Yet, in her assessment, Defendant Rhodes stated only that Goines “often displays inappropriate affect” and was “appearing to respond to internal stimuli by his eyes darting about the roof, as if responding to visual hallucination.” Rhodes also indicated that Goines, whose watch and cell phone had been confiscated, appeared “disoriented as to time.” Rhodes also noted that Goines had informed her that he (Goines) has a “shrunk cerebellum” that was continuing to shrink. Although Goines provided Rhodes with the name of his physician who could further explain his cerebellar ataxia, the physician was never contacted.

50. Rhodes has a masters degree in education. At all times relevant to this Complaint, Rhodes was not a licensed medical professional, clinical psychologist, or clinical social worker in Virginia or any other state. As such, Rhodes lacked the education or experience to be professionally qualified at the autonomous practice level to provide direct diagnoses of psychological or mental health disorders.

51. In diagnosing Goines with “Psychotic Disorder NOS (298.9)”, Rhodes engaged in clinical psychology without being qualified to perform the diagnostic

function of a clinical psychologist. The appropriate diagnosis of mental disorders is a discretionary clinical function, requiring the exercise of professional judgment. As such, it may not be delegated to unlicensed personnel.

52. By delegating the diagnostic function to Defendant Rhodes, Valley Community Services Board failed to provide an adequate evaluation and diagnosis of Goines. In so doing, the Board acted with deliberate indifference to the clear and apparent risk to the Fourth Amendment Rights of Goines and other citizens facing an involuntary mental health and the attendant loss of liberty from such seizures.

53. Based on the observations of Goines as set forth in the Preadmission Screening Report, Defendant Rhodes lacked probable cause to make the allegations that Goines either (a) had a mental illness, or (b) would cause serious harm to himself or others as a result of a mental illness or (c) was in need hospitalization or treatment as set forth in the May 15 Petition for a temporary detention order against Goines.

54. On information and belief, Rhodes petitioned for Goines' 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 May 15 Petition and report against Goines. Instead, the baseless allegation that Goines had a mental illness and posed a threat of harm to others or himself was a pretext for the Defendant's involuntary and unlawful commitment of Goines.

55. Based upon the "bare bones" and conclusory May 15 Petition filed by Rhodes and Rhodes' accompanying report, a magistrate issued a Temporary Detention Order at 8:41 pm on May 15, 2014. See Exhibit B.

56. Pursuant to the Temporary Detention Order, Goines was transported, against his will, to Crossroads Mental Health Center, thus isolating Goines from his family, friends, and attorneys.

57. Goines' cell phone was confiscated and he was not permitted to contact his family, friends, or attorneys at any time during his detention.

58. The Temporary Detention Order served as the basis to deprive Goines of his liberty until May 20, 2014. At that time, a hearing was held at Crossroads Mental Health Center, apparently on a Petition for Involuntary Admission for Treatment of Goines, although no record of the hearing or petition was ever filed with the Waynesboro Circuit Court. As a result of the hearing, Goines was released from his incarceration and commitment sometime in the evening on May 20, 2014.

59. Goines has no history of mental illness and has never been treated or sought treatment for mental illness.

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

61. As a result of the action of the Defendants as described herein, Goines 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.

FIRST CAUSE OF ACTION

Unlawful Seizure under the Fourth Amendment- Color of State Law

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

in full.

63. The actions of Defendants Shaw, Dean, Scott, Williams, Rhodes and John Does 1-10, as alleged herein, deprived Goines of his constitutional rights to be free from unreasonable seizures as guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution.

64. The actions of the named Defendants – 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.

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

66. Defendant Valley Community Services Board also caused the deprivation of Goines right to be free from unreasonable seizures in that Defendant Valley Community Services Board (a) had a policy and/or practice of delegating authority and employing persons who are not sufficiently trained or educated to make the determination of whether persons, including Goines, are subject to involuntary admission to a mental health facility under Va. Code §§ 37.2-808 et seq., and (b) failed to train and/or adequately supervise Defendant Rhodes. Defendant Valley Community Services Board's policy and/or practice and failure to train and/or supervise Defendant Rhodes constituted deliberate indifference to the clear and apparent risk to the Fourth Amendment rights of Goines and other citizens facing an involuntary mental health and the attendant loss of liberty from such seizures, and such failure to train and/or supervise was a proximate cause of the deprivation suffered by Goines. As such, Defendant Valley Community Services

Board is liable to Goines for the damages sustained as a result of the deprivation of his rights.

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

SECOND CAUSE OF ACTION

False Imprisonment, State Law

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

69. By their use of force and threats of force as described herein, one or more Defendants - including, but not limited to Shaw, Dean, and Williams - instigated, requested, directed and/or carried out the arrest and detention of Goines, thereby imposing restraints upon Goines liberty, without legal justification.

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

71. 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.

72. As the proximate result of Defendants' actions, Goines has sustained the damages previously set forth. Defendants therefore are liable to Goines 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:

- A. That this Court award Plaintiff compensatory and/or punitive damages in such amounts as shall be shown by the evidence at trial;
- B. 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;
- C. That this Court order Defendants to pay Plaintiff's attorneys' fees and costs, including expert fees, pursuant to 42 U.S.C. § 1988; and
- D. That this Court order any and all such other and further relief as it may deem proper.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a jury trial for all claims and issues so triable.

Respectfully submitted, this 10th day of December, 2014.

GORDON GOINES
By Counsel

 /s/Timothy Coffield
Timothy Coffield (VSB 83430)
5374 Gordonsville Road
Keswick, VA 22947
(434) 218-3133 | tc@coffieldlaw.com
Counsel for Plaintiff Gordon Goines
Participating Attorney for THE RUTHERFORD INSTITUTE

CERTIFICATE OF SERVICE

I certify that on December 10, 2014, true copies of the foregoing Complaint were delivered to a qualified process server with instructions to serve the same upon Defendants or their registered agents at the following addresses:

Valley Community Services Board
85 Sangers Lane
Staunton, VA 24401

David Shaw
Waynesboro Police Department
250 South Wayne Avenue
Waynesboro, VA 22980

Robert Dean,
Waynesboro Police Department
250 South Wayne Avenue
Waynesboro, VA 22980

D.L. Williams,
Waynesboro Police Department
250 South Wayne Avenue
Waynesboro, VA 22980

Jenna Rhodes,
Valley Community Services Board
85 Sangers Lane
Staunton, VA 24401

BY: /s/Timothy Coffield

Timothy Coffield (VSB 83430)