

RECEIVED

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TENNESSEE WESTERN DIVISION 2018 MAR 23 PM 12: 53

APRIL MALONE and CELITRIA WATSON,)
Plaintiff(s),)

vs

No. _____

SHELBY COUNTY, PAUL HAGERMAN, Assistant District Attorney, Individually and in his Official Capacity, AUSTIN SCHOLEFIELD, Individually and his Official Capacity CHRIS SCRUGGS, Individually and his Official Capacity CITY OF MEMPHIS, OFFICER THURMOND RICHARDSON,) Individually and in his Official Capacity, OFFICER JONATHAN OVERLY, Individually and his Official Capacity , OFFICER WILLIAM ACRED, Individually and his Official Capacity.)
Defendant(s).)

COMPLAINT

Comes now the Plaintiffs, April Malone and Celitria Watson (hereinafter "Ms. Malone" or "Ms. Watson") and, and for cause of action would show the following:

INTRODUCTION

- 1. This action is brought pursuant to Tennessee Governmental Tort Liability Act and 42 U.S.C. §1983.
2. This action is also brought pursuant to the Tennessee Human Rights Act, T.C.A. §4-21-401, et seq.
3. This action alleges fraudulent misrepresentation, negligence, false arrest, false imprisonment, malicious prosecution, negligent

infliction of emotional distress and intentional infliction of emotional distress.

PARTIES

4. Plaintiff, April Malone, is and at all times pertinent herein, has been, a resident citizen of Memphis, Shelby County, Tennessee.
5. Plaintiff, Celitria Watson, is and at all times pertinent herein, has been, a resident citizen of Memphis, Shelby County, Tennessee.
6. Defendant, Shelby County is responsible for the administration and governance of the assistant district attorneys, which is located in Shelby County, Tennessee.
7. Defendant, Paul Hagerman is an assistant attorney general employed by the State of Tennessee District Attorney General's Office and Shelby County, which is located in Shelby County, Tennessee.
8. Defendant, Austin Scholfield is an assistant attorney general employed by the State of Tennessee District Attorney General's Office and Shelby County, which is located in Shelby County, Tennessee.
9. Defendant, Chris Scruggs is an assistant attorney general employed by the State of Tennessee District Attorney General's Office and Shelby County, which is located in Shelby County, Tennessee.
10. Defendant, City of Memphis is responsible for the administration and governance of the Memphis Police Department, which is located in Shelby County, Tennessee.
11. Defendant, Officer Thurmond Richardson is an OCU police officer employed by

the Memphis Police Department, which is located in Shelby County, Tennessee.

12. Defendant, Officer Jonathan Overly is an OCU police officer employed by the

Memphis Police Department, which is located in Shelby County, Tennessee.

13. Defendant, Officer William Acred is an OCU police officer employed by the

Memphis Police Department, which is located in Shelby County, Tennessee.

14. The facts and occurrences hereinafter set forth took place in Shelby County,

Tennessee.

FACTS

15. At some time prior to January 21, 2017, Plaintiffs' cell phones were the subject of a wiretap requested by Defendants, Hagerman, Scholefield and Scruggs.

16. That as part of the application for the wiretap, Defendants Hagerman, Scholefield and Scruggs used information provided by Officer Richardson, Overly and Acred.

17. That the information provided by Officers Richardson, Overly and Acred was created, fabricated and/or altered.

18. That the information was used to secure text messages from Plaintiffs' cell phones and then the text messages were altered or fabricated in order to make it appear that Plaintiffs were involved in criminal activity.

19. That the altered text messages were used by Hagerman, Scholefield and Scruggs to secure an indictment against Plaintiffs.

20. That Hagerman, Scholefield and Scruggs knew or should have known when they presented the text messages, that they had been altered.

21. That Hagerman, Scholefield and Scruggs never produced the original text messages produced from the respective cell phone companies, but only produced recreated

copies of altered text messages produced by the Memphis Police Department.

22. That as a result of the altered text messages, Defendants secured an indictment against Plaintiffs on January 31, 2017 for several serious felony criminal charges.

23. That after repeatedly attending scheduled court appearances, Plaintiff were able to secure the original text messages from their respective cell phone companies.

24. That the text messages obtained by Plaintiffs reveal several discrepancies in the messages and the dates and times sent.

25. That Defendant eventually dismissed the charges against Plaintiffs.

TENNESSEE GOVERNMENTAL TORT LIABILITY ACT

26. *Plaintiffs hereby incorporate by reference any and all factual and allegations and legal bases and/or conclusions previously made in this complaint.*

27. Plaintiff hereby incorporates by reference any and all allegations in the original complaint.

28. Plaintiff alleges that pursuant to T.C.A. 29-20-20 (a) municipalities and governmental entities are generally immune from suit.

29. Plaintiff alleges however that based upon the conduct of the governmental employees and pursuant to T.C.A. 29-20-205 (1) (2), the Tennessee Governmental Tort Liability Act immunity is removed from defendant, City of Memphis.

42U.S.C. §1983 and VIOLATION OF THE TENNESSEE HUMAN RIGHTS ACT

30. *Plaintiffs hereby incorporate by reference any and all factual and allegations and legal bases and/or conclusions previously made in this complaint.*

31. Plaintiff alleges that Defendant, City of Memphis failed to provide adequate training

or supervision for the police officers and that their failure to train and supervise their officers has become a custom that has resulted in repeated substantiated excessive abuse claims against the City of Memphis.

32. Plaintiff alleges that Defendant, City of Memphis was aware that the officers involved had deficiencies, which would lead to the type of injuries which the Plaintiff suffered. However, the City of Memphis failed to take remedial action and provide adequate training, supervision or discipline for the police officers and that their failure was the proximate cause of Plaintiff's injuries.

33. Plaintiffs alleges that Defendants, Officers, Richardson, Overly and Acred, while acting under the color of state law, intentionally, recklessly and negligently violated their Constitutional rights in that they were arrested without probable cause.

34. Plaintiffs alleges that Defendants, Officers, Richardson, Overly and Acred, while acting under the color of state law, intentionally, recklessly and negligently violated their Constitutional rights in that they created and or fabricated evidence to secure arrests warrants for their arrests, causing certain severe physical and emotional injuries.

35. Plaintiffs alleges that Defendants, Officers, Richardson, Overly and Acred, while acting under the color of state law, intentionally, recklessly and negligently violated their Constitutional rights in that they imprisoned them knowing that they had no probable cause to arrest them, causing certain severe physical and emotional injuries.

36. Plaintiffs alleges that Defendants, Officers, Richardson, Overly and Acred, while acting under the color of state law, intentionally, recklessly and negligently treated or allowed Plaintiffs to be treated in a humiliating manner, causing certain severe physical and emotional

injuries.

FRAUDULENT MISREPRESENTATION

37. Plaintiffs hereby incorporate by reference any and all factual and allegations and legal bases and/or conclusions previously made in this complaint.

38. Plaintiffs allege that Officers Richardson, Overly and Acred knowingly and intentionally provided created or fabricated information to secure wiretap warrants and arrests warrants for Plaintiffs.

39. Plaintiffs allege that Officers Richardson, Overly and Acred knowingly and intentionally created and or altered cell phone text messages to make it appear that Plaintiffs were involved in criminal activity.

40. Plaintiffs allege that the only basis for Plaintiffs' arrest and subsequent criminal charges, were the created, altered or fabricated text messages.

41. Plaintiffs allege that Defendants, Hagerman, Scholefield and Scruggs, knew or had reason to know that the evidence provided by Officers Richardson, Overly and Acred against the Plaintiffs was created, fabricated or altered.

42. Plaintiffs allege that Defendants, Hagerman, Scholefield and Scruggs, in their administrative and or investigative capacity, presented applications for wiretaps with information provided by Officers Richardson, Overly and Acred, which they knew or should have known, was false.

43. Plaintiffs allege that Defendants, Hagerman, Scholefield and Scruggs, in their administrative and/or investigative capacities intentionally, knowingly or recklessly presented or otherwise produced evidence that was altered, fabricated or

created.

NEGLIGENCE

44. Plaintiffs hereby incorporate by reference any and all factual and allegations and legal bases and/or conclusions previously made in this complaint.

45. Plaintiff alleges that Defendant, Shelby County failed to provide adequate training or supervision for Defendants, Hagerman, Scholefield and Scruggs and that their failure to train and supervise their assistant district attorneys has become a custom that has resulted in repeated substantiated excessive abuse claims against the Shelby County.
46. Plaintiff alleges that Defendant, Shelby County was aware that Defendants, Hagerman, Scholefield and Scruggs had deficiencies, which would lead to the type of injuries which the Plaintiffs suffered. However, the Shelby County failed to take remedial action and provide adequate training, supervision or discipline for the assistant district attorneys and that their failure was the proximate cause of Plaintiff's injuries.
47. Plaintiffs allege that Defendants, Hagerman, Scholefield and Scruggs failed to adequately review and investigate the evidence provided by Officers Richardson, Overly and Acred.
48. Plaintiff alleges that Defendant, City of Memphis failed to provide adequate training or supervision for by Officers Richardson, Overly and Acred and that their failure to train and supervise their officers has become a custom that has resulted in repeated substantiated excessive abuse claims against the City of

Memphis.

49. Plaintiff alleges that Defendant, City of Memphis was aware that by Officers Richardson, Overly and Acred had deficiencies, which would lead to the type of injuries which the Plaintiff suffered. However, the City of Memphis failed to take remedial action and provide adequate training, supervision or discipline for the police officers and that their failure was the proximate cause of Plaintiff's injuries.
50. Plaintiff alleges that Defendants, Officers, Richardson, Overly and Acred, while acting under the color of state law, intentionally, recklessly and negligently violated her Constitutional rights in that she was arrested without probable cause.

MALICIOUS PROSECUTION

51. Plaintiffs hereby incorporate by reference any and all factual and allegations and legal bases and/or conclusions previously made in this complaint.

52. Plaintiffs allege that Officers Richardson, Overly and Acred filed were all involved in filing criminal charges against Plaintiffs.
53. Plaintiffs allege that Officers Richardson, Overly and Acred remained actively involved in the prosecution after the charges were filed.
54. Plaintiffs allege that Officers Richardson, Overly and Acred did not have probable cause necessary to request or recommend filing criminal charges against Plaintiffs.
55. Plaintiffs allege that Officers Richardson, Overly and Acred initiated the criminal

charges for improper and unlawful purposes.

56. Plaintiffs alleges that Defendants, Officers, Richardson, Overly and Acred, while acting under the color of state law, intentionally, recklessly and negligently violated her Constitutional rights in that they filed criminal charges against Plaintiffs knowing that there was no legal basis, causing certain severe physical and emotional injuries.
57. Plaintiffs allege that Hagerman, Scholefield and Scruggs, in their administrative and/or investigative capacities were all involved in filing criminal charges against Plaintiffs.
58. Plaintiffs allege that Hagerman, Scholefield and Scruggs, in their administrative and/or investigative capacities remained actively involved in the prosecution after the charges were filed.
59. Plaintiffs allege that Hagerman, Scholefield and Scruggs, in their administrative and/or investigative capacities did not have probable cause necessary to request or recommend filing criminal charges against Plaintiffs.
60. Plaintiffs allege that Hagerman, Scholefield and Scruggs, in their administrative and/or investigative capacities initiated the criminal charges for improper and unlawful purposes.
61. Plaintiffs alleges that Defendants, Hagerman, Scholefield and Scruggs, in their administrative and/or investigative capacities, while acting under the color of state law, intentionally, recklessly and negligently violated her Constitutional rights in that they filed criminal charges against Plaintiffs knowing that there

was no legal basis, causing certain severe physical and emotional injuries.

FALSE ARREST and FALSE IMPRISONMENT

62. Plaintiffs hereby incorporate by reference any and all factual and allegations and legal bases and/or conclusions previously made in this complaint.

63. On said date Plaintiffs were arrested by the Defendants, against their will, and without any justification.

64. In detaining Plaintiff, the Defendants were engaged in the regular course of and within the scope of their employment for the City of Memphis Police Department. As such, City of Memphis is vicariously liable for the actions of the officers.

INTENTIONAL AND NEGLIGENT INFLICTION OF EMOTIONAL
DISTRESS

65. Plaintiffs hereby incorporate by reference any and all factual and allegations and legal bases and/or conclusions previously made in this complaint.

66. Plaintiffs allege that Defendants' negligent conduct in falsely arresting them using created, fabricated or altered evidence, is an act that so shocks the conscious of the ordinary reasonable behavior and thus caused intentional infliction of emotional distress.

DAMAGES

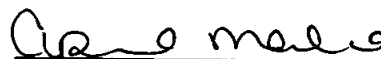
As a direct and proximate result of the defendants' actions, plaintiffs have suffered humiliation, indignity, disgrace, fright, shame, mortification, injury to plaintiffs' feelings and reputation, mental and physical suffering, and has incurred medical and rehabilitative expenses, lost wages, pain and suffering, and loss of enjoyment of life.

RELIEF SOUGHT

WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

- 1 Compensatory damages in the amount of \$1,500,000 to each Plaintiff.
- 2 Punitive damages in the amount of \$1,500,000 to each Plaintiff.
- 3 Cost of litigation and expenses.
- 4 Such other and further relief as is consistent with law, fairness and equity
and respectfully pray for a trial by jury on all issues of fact.

Respectfully Submitted,



APRIL MALONE

Pro Se Plaintiff

4610 Covington Pike

Memphis, TN 38135

(901) 708-0215 Phone



CELITRIA WATSON

Pro Se Plaintiff

P.O. Box 1332

Cordova, TN 38088

(901) 612-0850 Phone